HOUSE OF REPRESENTATIVES—*Thursday, October 31, 1991*

The House met at 10 a.m.

The Dr. James R. Ray, European director, Baptist International Missions, Inc., Chattanooga, TN, offered the following prayer:

Our Father, as we assemble today in this place to assume the duties set before us, we acknowledge our need of your guidance. We are reminded that it is Your providence that has allowed us this sacred trust of leadership. We remember the words of Jeremiah the prophet when he said to his country, "truth is perished."

May we not forget, Lord, our sacred duty to keep truth from perishing in our country. Give us wisdom and guidance. Teach us to lean upon You, and not upon ourselves. Help us to keep our own hearts right so that we might govern right.

We lift our prayers to Thee for peace in the world and peace in our hearts through Jesus Christ your son. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

Mr. SPEAKER. Will the gentleman from New Hampshire [Mr. SWETT] come forward and lead the House in the Pledge of Allegiance.

Mr. SWETT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1350. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes;

S. 1467. An act to designate the U.S. courthouse located at 15 Lee Street in Montgomery, AL, as the "Frank M. Johnson, Jr. United States Courthouse";

S. 1530. An act to authorize the integration of employment, training, and related services provided by Indian tribal governments;

S. 1889. An act to designate the U.S. courthouse located at 111 South Wolcott in Casper, WY, as the "Ewing T. Kerr United States Courthouse"; and

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes.

THE REVEREND DR. JAMES R. RAY

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

Mr. RAY. Mr. Speaker, I rise to introduce my youngest brother James Ray to my colleagues and to express my appreciation for this opportunity of delivering this morning's invocation.

I want to share my pride with you on the accomplishments of my brother. We both came from proud but humble beginnings. Our parents were third generation Georgia farmers, and we were both born on a 200-acre, two-horse farm in rural Crawford County, GA. We have not forgotten from whence we came.

Our religious roots began in the Little Union Primitive Baptist Church in our home county. Our mother was one of the strongest Christians that I have ever known and any success in our lives must be attributed to her love, guidance, and firm discipline.

James came to know the Lord as a very young person during a revival which was conducted by Ed Beck, a young preacher who was the captain of the Kentucky Wildcats basketball team at the University of Kentucky in the early sixties. Ed was also our brother-in-law.

James entered Tennessee Temple University in Chattanooga and earned his way through college. He worked at night in the bleaching and dyeing division of a woolen mill and preached at small churches in the Tennessee mountains on Sundays.

He met his wife Mary at school, and they have two children and two grandchildren.

He received graduate degrees from Luther Rice Seminary and Trinity Theological Seminary.

After pastoring in churches in Tennessee, Illinois, and Alabama, he became interested in the mission field and after prayerful consideration made the decision to devote his life to mission work.

He chose the Baptist International Missions in Tennessee which was just beginning to experience limited success in establishing foreign missions.

BIM tested its candidates very thoroughly by requiring that once they were accepted, it was necessary for them to work for 1 year or more in churches around the United States building up commitments of financial assistance and pledges.

Once adequate assistance was assured to sustain the candidate in a foreign land for a period of time, an assignment was made.

They are sent to a community with a challenge to build a church from the ground up by raising the necessary funding while preaching the Baptist faith.

His first mission assignment was Brisbane, Australia, and he later established a mission in Corby, England.

In 1979, he was appointed European director of the Baptist International Mission, and today he is director over 125 missionaries in 15 European countries. He is actively working in all of Europe, which is his assignment.

He and his mission board are heavily involved in Eastern Europe and have found that the Christian religion is alive and strong in Eastern Europe even after decades of Communist suppression.

A revival in Romania in July brought out 5,000 to 10,000 people each evening during the week, and over 1,000 were converted.

Mr. Speaker, I say to my colleagues that I appreciate the privilege of introducing my brother, the Reverend Dr. James Ray.

Jimmy and Mary selected Baptist International Missions in 1969 to fulfill his call to missionary service. They were sent to Australia where Jimmy preached in 100 churches in 7½ months. While there, they built the Life Gate Baptist Church of Brisbane, Queensland, and established a Bible college. Four years later, with a church building program underway and a sizable congregation established, Jimmy and Mary moved to England where he started the Life Gate Baptist Church in Corby, Northamptonshire.

Jimmy assumed the role of European director in 1979, but he still considers himself a missionary. He has traveled hundreds of thousands of miles in Europe and America, and has seen scores of young people become missionaries within the Baptist International Missions' umbrella.

As European director, my brother oversees the work of missionaries in 15 European countries including some in the Eastern European bloc. In July of this year, the mission held a revival in Romania which attracted over 6,000 attendees with over 1,000 converting.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Baptist International Missions is an extremely devoted organization whose influence and teaching spreads across the world. It was formed in 1960, and now is represented in 65 countries by over 1,000 missionaries.

The missionaries of the Baptist International Mission are a very devoted group. For instance, their subsistence support comes strictly from commitments they can obtain from churches and the community in which they live. In addition, support for the worldwide mission organization is very widespread with assistance coming from over 8,000 independent Baptist churches.

NO ACTION ON PRESIDENT'S DOMESTIC AGENDA

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

Mr. GILLMOR. Mr. Speaker, over the last few weeks, we have been inundated with legislative proposals and rhetoric and press conferences about reviving our sluggish economy. However, I should point out that based on figures released this week, the economy did begin to grow again in the most recent quarter. Indeed, it grew at the reasonably healthy rate of 2.4 percent. Some of the proposals which have been made have a great deal of merit, such as capital gains tax cut and expanded tax breaks for savings. Some of this rhetoric has finally prompted some Members of Congress to think about taking action, including leaders in the House and Senate.

This recent flurry of activity has come from both sides of the aisle. What really needs to be pointed out, though, Mr. Speaker, is that these proposals need to be openly debated in this House. The President proposed several growth incentive measures in his budget last February—there has been no congressional debate, and no congressional action, on these proposals. The President proposed his domestic agenda months ago. The ruling party of this Congress is to blame for failing to enact growth initiatives, and for not helping to bring about economic recovery.

PRESIDENT SHOULD SIGN EXTENDED UNEMPLOYMENT INSURANCE

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

Mr. BUSTAMANTE. Mr. Speaker, last month, construction declined, industrial production flattened, auto sales went down, steel production fell, and consumer confidence in the economy eroded. During this same time period, President Bush met with leaders of 21 foreign countries, including Micronesia and Lichtenstein, and only three meetings with Cabinet Secretaries on domestic issues.

When the House passed legislation to extend unemployment benefits last month, President Bush was meeting with Peruvian President Albert Fujimori. A few days later when the Senate debated and voted on an unemployment benefits bill, the President was at the U.N. meeting with leaders of Norway, the Marshall Islands, Micronesia, Iceland, Cambodia, Venezuela, and Lebanon.

Last week, the big three auto makers reported record losses. This week Federal Reserve Chairman Alan Greenspan said the "economy turn demonstrably sluggish." And yesterday it was reported that new home sales plunged almost 13 percent, even though interest rates are at their lowest levels in 15 years. These are not signs of a healthy economy.

The President deserves our support for a successful outcome in the Middle East peace talks in Madrid, and he is to be commended for getting the Madrid conference off to a good start. But now is time to take care of our own, and he can do that by signing an extended unemployment insurance that Congress will be sending to him in the next few days or weeks.

TIME TO HALT TRASHING OF AMERICA

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

Mr. PAXON. Mr. Speaker, as a result of a USDA decision in July, Canadian garbage is now allowed to flow unrestricted into our Nation.

In September, the USDA agreed to my request to conduct a full, substantive, and technical review of their July decision.

Well, Mr. Speaker, their report is in, and unfortunately, it raises more questions than it answers.

The USDA outlines 21 plant pests introduced into Canada and not known to occur in our Nation. They also specify serious animal diseases, and this is but a preliminary study, and yet they say Canada can still send more trash, completely unaddressed, the risk to public safety from millions of tons of uninspected Canadian garbage; for example, no control over inclusion of toxic or hazardous wastes.

To all this, the USDA says, "no risk."

Well, Mr. Speaker, western New Yorkers know differently, and we want action from our Government.

Along with my colleagues, the gentleman from New York [Mr. MARTIN] and the gentleman from New York [Mr. WALSH] and Senator D'AMATO, we have introduced legislation to again regulate Canadian solid waste imports.

Mr. Speaker, it is time to halt the trashing of America, and do it now.

THE SLUGGISH ECONOMY

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

Mr. WISE. Mr. Speaker, one of my colleagues on the other side of the aisle asked a good question just a couple minutes ago about why has there not been economic growth. I might point to the fact that during the last 10 years in which this country has been under a Republican administration, and particularly under President Bush's leadership, the result has been not jobs gained, but jobs lost; 300,000 jobs less than when the President raised his hand on the steps of the Capitol just 3 short years ago, 300,000 jobs less in this country than there were then.

□ 1010

Growth record, seven-tenths of 1 percent in the first 2 years of his administration, an all-time low.

But the folks at home do not need statistics, they know, they know that they cannot get a mortgage, they are having trouble making car payments; they know they are worried about whether or not to make out the tuition check; they know they do not want to buy something that is going to be expensive, because of what it may mean for the future.

What do they have to look forward to for relief? Well, President Bush has been meeting, all right, on the issue; he met with 21 world leaders while he has had three meetings on the economy.

Perhaps the answer is, if you are really concerned, maybe if you go to Rome next week or next month, you can talk to him, catch him in Singapore, perhaps in Japan when he is visiting there.

The answer is we have got to come home, we have got to take care of our own.

WE CAN UPHOLD CIVIL RIGHTS WITHOUT DESTROYING SMALL BUSINESS

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

Mr. IRELAND. Mr. Speaker, yesterday, the other body overwhelmingly approved a civil rights bill that will not force smaller businesses into adopting quotas and that provides reasonable caps on damage awards in discrimination suits.

This is good news for both employers and employees.

I have said from the beginning of the civil rights debate that we need to re-

store the balance in these cases that has been skewed by a string of Supreme Court rulings.

My concern is in assuring that balance is indeed restored, not simply skewed in the other direction.

I hope that we in this body will also have the opportunity to vote for a reasonable civil rights package that will not force quotas or bankrupt smaller firms with unrealistic damage awards.

Such a bill would be a triumph for civil rights and for small business.

If such a bill is enacted, those of us who voted against the quota bill will have done much more than simply say that we're for small business.

We will have cast votes that really count.

INTRODUCTION OF COMMUNITY HEALTH CARE ACT OF 1991

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

Mr. JOHNSTON of Florida. Mr. Speaker, in 1965, when we passed the Medicare and Medicaid Programs, we believed that the United States had finally created a system of universal health care. We were wrong.

Today, we share the dubious distinction with South Africa of being one of two industrialized countries without a universal health insurance system. The current piecemeal system of health insurance is far too confusing and fraught with loopholes that often leave the ill without adequate care. We have reached an impasse, and comprehensive reform is now vital to the economic, social, and moral health of our country.

Today, I am introducing the Community Health Care Act of 1991. This legislation creates a partnership between Federal, State, and local government for the provision of universal health insurance. This is a national program with State and local flexibility. Our solution to the health care crisis must be comprehensive; however, it must also be rooted in a local administration which is knowledgeable of local resources and conditions.

My plan is a variation of the single-payer proposal. It includes limited cost sharing and it encourages partnerships with private insurance companies. The Community Health Care Act has the potential to facilitate a broad consensus. I hope you will join me in finally giving Americans the dignity of a universal health insurance program.

THE BECK DECISION AND THE WORKERS' POLITICAL RIGHTS ACT

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

Mr. DELAY. Mr. Speaker, Thomas Jefferson once said "To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical." These words ring truer than ever today.

Under the National Labor Relations Act, the Railway Labor Act, and the Federal Election Campaign Act we are compelling workers to furnish contributions of money for the propagation of opinions which they disbelieve. Jefferson called that tyranny. I agree. In 1988, the U.S. Supreme Court also agreed in the decision of Beck versus Communication Workers of America.

As we take up campaign finance reform, let's use this opportunity to right this wrong. Let us support the political rights of workers. Let us incorporate the Supreme Court's Beck decision into any campaign finance reform that we take up.

My bill, H.R. 2915, the Workers' Political Rights Act, would do just that, allowing union dues payers to get a reduction in dues equal to that portion of their dues which go to political purposes. Without such protection, any campaign finance proposals would be far off the mark and I would oppose them.

SOLUTION SHOULD HELP ALL AMERICANS

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

Mr. DOOLEY. Mr. Speaker. President Bush finally awakened to the need to ensure equal rights for all Americans and supported the civil rights bills.

Let's hope he will also come to the realization that millions of unemployed Americans who have exhausted their jobless benefits need some help.

An extension of exhausted benefits would be a sure-fire boost to these families and for our stalled economy.

Congress says yes, the American people say yes, but to date our President says "no." Instead, he talks in vague terms about a growth package.

Let us be serious. Let us work for a benefits extension that provides assistance to hard-working Americans today, not the false promises of a trickle-down recovery months from now.

Americans suffering in this recession deserve at least that from President Bush and from this Congress.

BUDGET SUMMIT AGREEMENT PRODUCES LARGEST TAX INCREASE IN HISTORY AND BIGGEST DEFICIT IN HISTORY

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

Mr. DOOLITTLE. Mr. Speaker, today marks the 6th day until the first anniversary of the infamous 1990 budget summit agreement. This budget summit agreement approved the largest tax increase in our history. Ironically, this year will produce, as well, the biggest annual budget deficit in our history.

Indeed, during the first 2 years of this 5-year agreement, we have already exceeded the total deficit projections for the entire 5-year period covered by the 1990 budget summit agreement.

This agreement has been a miserable failure. Real economic growth has now been negative for the past 3 consecutive quarters.

The projected recovery is expected to be so sluggish that it could result in a permanent decline in the American standard of living.

The cumulative loss in the real gross national product by 1996 will exceed $8,000 for every man, woman, and child in this country.

Mr. Speaker, we need to undo the failed budget deal of 1990. We need to cut taxes across the board, now, before Congress adjourns this year.

TIME TO PUT THE GHOSTS OF THE PAST BEHIND US—CONGRESS SHOULD FOLLOW THE SAME REGULATION AS OTHER AMERICANS

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

Mr. SWETT. Mr. Speaker, today is Halloween. But the scariest thing that is facing Congress is not the ghosts and goblins that come out tonight, but the fear of applying to ourselves the same laws and regulations that we impose on everyone else.

Congress adopted legislation to protect employees against discrimination, assure the health and safety of workers, and prevent sexual harassment—and then Congress exempted itself from these requirements. Many of us who are new to this institution have been horrified to find this situation.

There is a valid constitutional argument involving the separation of powers that makes it inappropriate for executive branch agencies to have jurisdiction over the legislative branch. But there are creative ways to deal with that problem, and it is time for creativity.

Mr. Speaker, we in the Congress must observe the same laws and regulations that govern other Americans. Employee protections should be applied to our own employees, and we should take that action immediately.

It is time that we drive a stake through the heart of the notion that we in Congress are above the law.

HEARTY CONGRATULATIONS TO WAMU ON THEIR 30TH ANNIVERSARY FROM MEMBERS THROUGHOUT THE COUNTRY

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

Mr. DREIER of California. Mr. Speaker, I take the well because I am very concerned, in fact I was distressed, at three speeches that I heard delivered here in the last week; two came from that side of the aisle and one from this side of the aisle.

I am not concerned about the content of the speeches, but it is the lack of geographic diversity of those who spoke here.

We heard from the Delegate from the District of Columbia, ELEANOR HOLMES NORTON, we heard from the gentleman from Virginia [Mr. MORAN], representing northern Virginia, and the gentlewoman from Maryland [Mrs. MORELLA]. They were congratulating WAMU on their 30th anniversary.

Mr. Speaker, I want you to know that there are Members from throughout the country who, when here in Washington, DC, happen to enjoy "Morning Edition," "All Things Considered," "Fred Fiske," and other programs. In fact, I can tell you that my colleague from California [Mr. DYMALLY], our colleagues from New York, Mr. RANGEL, and Mrs. LOWEY, have told me repeatedly of the fact that they would want to congratulate WAMU on their 30th anniversary.

□ 1020

So, Mr. Speaker, I am happy to say that it is not just Representatives from the metropolitan area who want to join in extending hearty congratulations to WAMU, 88.5, National Public Radio.

RUN, MARIO, RUN

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

Mr. FOGLIETTA. Mr. Speaker, I rise today to urge Mario Cuomo to run for President of the United States of America.

At this time, America needs a President who is concerned about the problems of Americans. Our Senate race in Pennsylvania teaches us that the American people are profoundly concerned about basic family needs: obtaining quality health care, getting their children a good education, keeping their job, making ends meet.

We have a lot of good Democratic candidates, but none can articulate the issues confronting the family of America better than Mario Cuomo.

Yes, the State of New York has serious fiscal problems, the same fiscal problems facing all States and cities in our Nation.

I believe the root of these fiscal problems are the policies set in this city—by the President, but also by this Congress.

I am confident, Mario, that the people of New York can survive another 9 months as you run for President, but I doubt and am not confident that the people of the United States can survive another 4 years under the policies of George Bush.

Run, Mario, run.

THANKS TO MARIO CUOMO, NEW YORK IS THE TAX-AND-SPEND CAPITAL OF THE UNITED STATES

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

Mr. LENT. Mr. Speaker, as this is the year before a Presidential election, we can again see the traditional political rumblings coming from the capital of my home State of New York. The midnight oil is burning in the Governor's mansion in Albany as its occupant reflects on the election of 1992.

But, while the Governor is busy pondering campaign themes, the people of my Long Island district must deal with the devastating effects of his 10 years in office. My constituents must cope with their oppressive tax burden—ranked the highest in the Nation—which supports ever increasing levels of State spending. Thanks to Mario Cuomo, New York has gained the distinction of being ranked No. 1 as the tax-and-spend capital of the United States.

But it is getting even worse. On Long Island, large increases in local taxes are on the way to make up for the Governor's unconscionable cuts in funding for education. For the record, Mr. Speaker, school officials in my district have informed me that Governor Cuomo has cut $240 million in aid to Long Island school districts this year.

Mr. Speaker, while I wish Governor Cuomo well in his quadrennial quest for peace of mind and career fulfillment, it is my hope that he will find some time to reflect on Long Island's need for relief from his oppressive taxes.

IT'S TIME TO TAKE A STAND ON ILLEGAL TRADE

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

Mr. TRAFICANT. Mr. Speaker, top officials of the U.S. Trade Office are former employees of foreign companies. Now they are not clerks either. They are top decisionmaking officials. In fact, U.S. Trade Representative Carla Hills herself is a former employee of a foreign company.

Now tell me, with trade representatives like this, who fights illegal trade? Who fights illegal dumping? Who fights illegal subsidies taking our jobs, wrecking our economy? Evidently nobody.

Mr. Speaker, it is trick and treat over at the Trade Office. I think it is time for Democrats to start speaking out. No one is against free trade, but when we have a Trade Office that will turn their back on illegal trade taking our jobs, then Democrats are hypocrites talking about tax cuts.

Mr. Speaker, it is time for the Democrats to lay some ground rules here and take a stand on illegal trade before every job we have is overseas.

THE ACTIVITIES OF "HIS CORP."

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

Mr. DANNEMEYER Mr. Speaker, how may times have you gone to rent a video from a family video rental store only to be surprised or shocked by the language, sex, or violence contained in the film? If you are like the average person, you probably shut the movie off and admit the movie's promoters hoodwinked you again.

Leah Duet, owner of HIS Corp., in Escondido, CA, has solved this problem. Ms. Duet has made a business out of sanitizing some of Hollywood's more popular movies. Granted, many films in Hollywood are not salvageable for decent people, but Ms. Duet does her best to give American families good entertainment in a wholesome context.

Mr. Speaker, this commitment has my support. In a day and age when the family and religion have become whipping boys for most of Hollywood, the work of Leah Duet and others like her should be encouraged.

WE MUST MAKE THE CORRECT DECISION ON BANK REFORM LEGISLATION

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

Mr. MAZZOLI. Mr. Speaker, today, tomorrow, and part of next week we will be debating and trying to settle the issue of bank reform. There will be basically two versions before the House. Both versions tighten supervision of banks to be sure that we can identify the failing banks early enough to solve the problem, both bills tighten capital standards to make our banks more solvent, and both deal with the recapitalization of the bank insurance fund and of the Federal Deposit Insurance Corporation [FDIC] both of which protect deposits in failed banks.

The main difference in the two versions will come in the type of additional powers to be granted to the com-

mercial banks. One lets the banks into total interstate banking, totally into the securities industry—and we well remember what happened in 1987 on Wall Street—into the insurance industry, and we know now that many insurers around the country are failing leaving beneficiaries and pension plans at risk.

Mr. Speaker, we certainly want to be sure that commercial banks can compete in this new day and age, but at the same time, if we have to err, Mr. Speaker, we certainly do not want to err on the side of incaution. We need to proceed cautiously to protect depositors as well as making sure that our banks can compete.

PORTUGUESE CITIZENS SHOULD BE ABLE TO VISIT OUR COUNTRY WITHOUT A TOURIST VISA

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

Mr. MACHTLEY. Mr. Speaker, this February we will celebrate the 200th year of our diplomatic relations with the country of Portugal, yet on September 13, when a list was published extending the names of countries whose citizens we permit to visit this country without a tourist visa, three countries were conspicuously absent from this list: Greece, Ireland, and Portugal.

Mr. Speaker, there are some 1,200,000 Portuguese in this country. Unfortunately our State Department creates a presumption that anyone visiting this country is going to stay in this country, and so those people who go to get a tourist visa are often denied a right to visit their relatives and friends in this country because they cannot show a family, a job or other financial responsibility in their home host country. This is unfair.

Portugal has been a long-time friend of the United States. It is a member of NATO, a member of the Economic European Community. We have bases and enormous economic ties with Portugal. I believe we are discriminating against these three countries who have been excluded.

Mr. Speaker, today I am filing a bill which will act as a test pilot program to include the Portuguese community within this test pilot program to permit their citizens to visit their family and friends in this country without a tourist visa. I would urge my colleagues to cosponsor this to end this discrimination.

WE MUST PROTECT OUR BANKING INDUSTRY

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

Mrs. PATTERSON. Mr. Speaker, trick or treat. It is Halloween, and today Congress has a scary task ahead of us. Today, we will be asked to vote on legislation to reform the Nation's financial industry.

Many people will remind us that the banking industry is not the savings and loan industry. That's absolutely true. But our fundamental concerns with these issues should be the same.

We must protect the depositors. We must protect the taxpayers. And finally, we must protect the safety and soundness of our banking industry.

When the Banking Committee first began to debate these issues, I expressed my opposition to the too-big-to-fail philosophy. Uninsured deposits, foreign or domestic, should not be protected at a cost to the bank insurance fund.

We must safeguard against the flight of deposits from our banks. Go home my friends. Go home and listen to your constituents. They want to know that their money is safe. We are experiencing a crisis—a crisis of economics and a crisis of confidence.

Radically altering the deposit insurance system would shake the confidence of Wall Street and Main Street. A loss of deposits would simply mean that the banks would have even less money to loan individuals and small businesses. We would take this country out of the credit crunch and thrust it into the credit vise.

We must make sure that the regulators not only have the authority, but exercise their authority, to shut down a failing bank before it sinks into the black hole of insolvency.

Mr. Speaker, we may disagree on the bill and the amendments we will debate, but in considering this, I urge my colleagues to listen to the folks back home, not the lobbyists in Washington.

□ 1030

JOB CREATION IS GOAL FOR AMERICAN WORKERS

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

Mr. KOLBE. Mr. Speaker, Americans want jobs, not unemployment checks.

While this Congress has fiddled around, trying to get an unemployment compensation bill adopted that will somehow, magically, not have to be paid for by anyone, the economy has continued to sputter along. Better than it was a few months ago, perhaps, but not good.

What is needed is a stimulus to the economy. What is needed is capital, savings, investment—money that can create new jobs and make old jobs more productive. That is the only way we stay competitive with the rest of the world and keep our engine of economic growth going. Businesses—small and large, established companies and new, entrepreneurial endeavors—that is where jobs are going to be created, not by Government.

What I have just described is not a very novel prescription. It is called free market economics. If this Congress has forgotten what that means, just ask the people of Eastern Europe. Better yet, ask one of the thousands of craftsmen put out of work because Congress last year decided to tax the expensive cars and boats they used to build and service and sell.

We can differ about what we should be doing to create jobs, but we ought not to differ on the objective. Let us get off the kick about handouts. Let us give American workers a hand up.

AMERICAN FAMILIES FALLING BEHIND UNDER REPUBLICAN ADMINISTRATIONS

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

Mr. SARPALIUS. Mr. Speaker, in today's Washington Post there is a column by George Will. It spells out what Republican Presidential domination has done to this Nation's economy. I would just like to point out some of the highlights of Mr. Will's column.

He said that the wages of average workers today are below what they were in 1979. He talks about the fact that one of the biggest business in this country today is the day care business, because today in this country nearly all of our middle-aged American families have to have both husband and wife working to survive. They are twice as many working mothers with children today than there were 30 years ago. In the 1950's a middle-class family only spent about a tenth of their income on mortgage payments. Today they have to spend over half of their income on mortgage payments.

Mr. Speaker, tonight when we see children knocking on our doors, let us remember that 20.6 percent of those children or 1 out of 5 live in poverty.

Mr. Speaker, the scariest thing is that trickle-down economics clearly does not work. What makes it even more scarier is that there are Republicans who think that voodoo economics does.

GROWTH MEASURES HELD HOSTAGE

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

Mr. HERGER. Mr. Speaker, nearly 3 years ago, President Bush called on Congress to enact measures to stimulate economic growth and create jobs. He called for creation of a family savings plan, enterprise zones in areas of economic distress, and negotiation of

free trade agreements to expand American exports. He urged cutting capital gains taxes to stimulate more job creating investment.

Was the Democratic leadership of the Congress listening? Apparently not. This is the most charitable explanation for their inaction on programs to end the recession and put Americans back to work.

Mr. Speaker, it is time to start listening. Let's roll up our sleeves and begin consideration of the economic growth incentives that President Bush called on us to enact almost 3 years ago.

WHAT'S THE PRESIDENT'S RESPONSE?

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

Mr. PRICE. Mr. Speaker, as our Nation's economy continues to decline, Americans are waiting for President Bush's response.

So far, our President has created fewer jobs in his first term than any other President in 50 years. Under his watch, we've lost more jobs and had the slowest GNP growth of any postwar administration. Real disposable income has fallen since he took office. The wages of the average American worker are now 9 percent less than in 1979.

What's the President's response? He met with leaders of 21 foreign countries last month, including Micronesia and Liechtenstein, but only found time for three meetings with Cabinet Secretaries to discuss domestic issues.

If he needs evidence that more attention is needed, President Bush ought to come down to North Carolina. We're better off than most States, but our people are struggling. A few recent headlines tell the story: "20-year-old furniture firm closes stores." "US Air asking employees to take pay cuts." "Retail and auto sales declining."

Democrats are pushing for economic growth legislation—like the unemployment compensation bill, the highway bill, middle-income tax cut bill—to ease the burden of the recession on Americans. And we're taking steps to ease other burdens on the middle class, like a student loan bill that helps more middle-class kids go to college.

Meanwhile, what's the President's response? The Nation is waiting to find out.

THE REPUBLICAN AGENDA TO STIMULATE THE ECONOMY

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

Mr. RIGGS. Mr. Speaker, I will be glad to tell the Members on the other side what the President's response is.

Mr. Speaker, the American people want Congress to start doing something to help the economy. But the Democrat leadership is set on addressing measures that only provide short term solutions to the plight of the unemployed. What are the Democrats waiting for? Why will they not bring to the floor legislation to help stimulate the economy?

The Democrats are finding it easy to blame President Bush for being soft on the domestic agenda. But President Bush has many domestic and economic policies that specifically will help our economy. The Republicans want to give our citizens jobs, not unemployment checks. We do not want to see people on welfare, we want to do something to get our constituents off welfare. We want to pass legislation to help people get back on their feet, not keep them begging on their knees.

When are the Democrats going to bring legislative issues to the floor to help the economy. Republicans want to pass capital gains reductions, a family savings plan, a permanent R&E tax credit, enterprise zones, and other such legislation to help our economy.

I hope the Democrat leadership will stop blocking our effort to create jobs. It is time for the Democrats to quit dragging their feet and start addressing resolutions to the very real problems the people in America are experiencing.

SIGNIFICANT TRENDS SEEN IN PENNSYLVANIA SENATORIAL RACE

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

Mr. HOAGLAND. Mr. Speaker, we received the news today in the local newspapers that the appointed Senator, HARRIS WOFFORD, has now pulled even with former Attorney General Richard Thornburgh in the race for Senator Heinz' Senate seat in Pennsylvania. This is remarkable news, given the percentages that have been made up in that election race. What does this surprising news mean?

It means that the American people want this administration to work with Congress in addressing the very serious domestic needs of our Nation. It means that people want effective health care reform. It means that people want reasonable benefits for those who are unemployed because of the recession, to carry them through until they can find another job. It means that they want the budget balanced.

With the exception of the Clean Air Act and the child care legislation, the President has vetoed virtually every attempt we have made here in Congress to deal with our domestic problems. There have been over 20 vetoes of domestic legislation. "No, no, no, no," is all we hear from the White House.

Mr. Speaker, we need to get together on a nonpartisan basis and work out these problems.

CONGRESSIONAL EXEMPTION FROM LABOR, CIVIL RIGHTS, AND OTHER LAWS

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

Mr. BENNETT. Mr. Speaker, in passing its version of the new civil rights bill yesterday, the Senate included a provision allowing Senate staffers to take job-related grievances to court. While I applaud those efforts, the legislation truly does not go far enough. It establishes an unnecessary bureaucracy that employees must navigate before seeking judicial remedy—the first course of action for some in the private sector. In addition, it only protects staffers under the Civil Rights Act; ignoring the many other laws which are applied to the private sector and should apply to Congress.

It was said during debate on the Senate floor yesterday that exceptions from such laws should be allowed on the basis that Members in both bodies are granted immunity by the speech and debate clause of the U.S. Constitution. While this is true for floor debate, it should not be the basis for exemptions from the very laws that we expect every other American to adhere to. We do not use the speech and debate clause to exempt ourselves from laws prohibiting thievery, rape, and murder. Why should we allow such an exemption for important legislation like the Equal Employment Opportunity Act, the Fair Labor Standards Act and the Freedom of Information Act? I urge my colleagues to consider this important question and act in the most fair and responsible manner as we confront this important issue.

On October 11, I introduced H.R. 3555, a brief and important bill, which eliminates the whole controversy of exempting Congress from the litany of laws this body does not follow. Further, it eliminates all the perks and privileges and does so in a practical way by seeing to it that we do not get privileges not allowed to the public.

My bill has been referred to the Committees on Government Operation, House Administration, and Education and Labor. It is my hope that one of those committees will act promptly and report out the bill. That would allow us to take this issue to conference with the Senate on the civil rights bill.

I submit a copy of H.R. 3555 for the RECORD.

H.R. 3555

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

SECTION 1. From the date of enactment of this legislation Members of the U.S. House of

Representatives and of the U.S. Senate are no longer exempted from the laws of the United States, including, but not limited to, the following: The Americans with Disabilities Act, Title VII of the 1964 Civil Rights Act, The Equal Employment Opportunity Act, Occupational Safety and Health Act, Fair Labor Standards Act and Freedom of Information Act.

SEC. 2. From the date of the enactment of this legislation it shall be illegal to furnish, at the expense of the U.S. government, any Member of the U.S. House of Representatives or of the U.S. Senate any of the following items free or at reduced costs: medicine, hospital care, ambulance services, meals, flowers, plants, pictures, picture frames, haircuts, or other items, services, or privileges, except official office expenses, such as office supplies and stationery.

□ 1040

UNEMPLOYMENT COMPENSATION

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

Mr. LEWIS of Georgia. Mr. Speaker, I find little comfort that the President has suddenly discovered, at long last, that there are unemployed persons needing help.

I find little comfort, Mr. Speaker, that the President is just now hearing the loud clangling calls of distress that have been the headlines of our newspapers and television stations—for weeks.

In last Saturday's edition of the Atlanta Constitution, the President was quoted as saying, "People are hurting." Where have you been Mr. President? Did you not realize the affect that your two vetoes would have on Americans who have depleted their unemployment compensation benefits—in many cases by no fault of their own? There have been layoffs, Mr. President, and there will be more. Ask Citicorp, ask IBM, and ask Ford Motor Co.

If you need further proof Mr. President, come home to America, come to Georgia. We have some 78,000 Georgians that should be eligible for benefits. There are people in Georgia who had to sell their homes to supplement their unemployment benefits just to live. The local media reports that the job market is so tight that people can't even get in for interviews.

Mr. Speaker, there are approximately 98,000 of America's 24 million working families that are now headed by parents who have both lost their jobs.

Please, give these folks some comfort and sign the unemployment compensation benefits package. The American worker deserve your attention.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). Members are reminded to address their remarks to the Chair.

PROPOSED MILK STANDARDS GOOD FOR CONSUMERS

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

Mr. TRAXLER. Mr. Speaker, an ad in the Washington Post this morning really got my attention. The more I think about it the more I think it represents almost the epitome of misleading advertising. We should look at this ad for what it really is. It's the final futile attempt by the Milk Industry Foundation to cling to old, poorly conceived standards that use as their basis that the quality of milk from the poorest producing cow should be the standard. This means that all progress in breeding, feeding, and management since the standards were established should be ignored.

Milk as it comes from the cow has been enhanced by technology for years. It is cooled faster, kept cleaner, separated better than ever before. Dairymen, producers of the high-quality product, have been leaders in continually struggling for improved standards.

The standards which are proposed in a bill soon to reach the floor have been in effect in California for over 25 years. They are strongly supported by the California consumer because they require all processors to meet the same high standard. Competition by processor and retailers for market share can not be done at consumer expense through lower product quality.

CAMPAIGN REFORM: DO NOT SUBSIDIZE THE STATUS QUO

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

Mr. PORTER. Mr. Speaker, the Democrat campaign reform package allows candidates to spend $600,000—up to $200,000 of it from the taxpayer plus postal subsidies. This legislation makes a mockery of reform. It merely subsidizes the status quo.

Mr. Speaker, I'm a reluctant convert to the idea of spending caps. On television during the last election I saw commercial after commercial depicting candidates as criminals and liars. No wonder the American people think politicians are dishonorable—we have spent millions of dollars selling them on the idea. These ads are created by marketing people whose skills translate easily to electing candidates. They rarely have personal ties to the States where they operate and they don't care what their advertising does to public faith in democracy.

Mr. Speaker, if we are going to have spending caps, let us have caps with a bite—I suggest a maximum of $250,000. The Democrat's $600,000 cap does nothing but sanction business as usual—$10,000 union PAC contributions plus taxpayers kicking in up to $170 million for negative ads.

Mr. Speaker, think about it—Americans will pay the cost of negative ads that convince them not to vote or participate in government. Small wonder we have a $350 billion deficit with this kind of thinking.

SUPPORT RICHARDSON-SARPALIUS-SLATTERY AMENDMENT ON HOUSE BANKING BILL

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

Mr. RICHARDSON. Mr. Speaker, along with the gentleman from Texas [Mr. SARPALIUS] and the gentleman from Kansas [Mr. SLATTERY], I will be offering an amendment that would permit out-of-State banks to open branches in a State only, and I repeat only, if that State passes a law specifically allowing them to do so. This is called the opt-in approach.

States could choose to allow interstate branching at any time by enacting such a law. If a State does opt in, incoming branches would be subject to any requirements, conditions, or limitations that may be established under State law. Consumers are supporting this provision.

Mr. Speaker, in one of the descriptions of the amendment it states that our amendment strikes the Community Reinvestment Act evaluation. This is simply a drafting error. It is not the case. This is being corrected. All Members should know that our amendment gets unanimous support from your small banks, consumer groups, and many others.

LIMIT DEPOSIT INSURANCE TO $100,000 PER PERSON PER INSTITUTION

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

Mr. VALENTINE. Mr. Speaker, it is my understanding that later on today or later this week or next week as the House considers banking reform there will be an amendment offered which will limit deposit insurance to $100,000 per person.

Right now a family of four can arrange its deposits in a single institution so as to insure up to $1.4 million.

This insurance was not instituted to protect millionaires, but to protect small investors by assuring that their deposits would be safe in friendly insured banks.

Mr. Speaker, the banking industry will oppose this legislation. There are many, many of whom are good friends of mine, who will say this is not the time to send the wrong message. But I

suggest to Members that there can be no meaningful bank reform, there can be no meaningful bank reform that will provide any kind of shield or any protection for the taxpayers in this country without reform which brings severe limitations on federally insured accounts.

DO NOT LIMIT DEPOSIT INSURANCE

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

Mr. HUBBARD. Mr. Speaker, multiple insured accounts are not the problem with failing banks today. There is not one bank in this Nation that has failed because of multiple insured accounts. It only affects 3 percent of those accounts

Imagine the headlines across America in the news media this week or next if we do limit deposit insurance accounts. The headlines will be "The House Cuts Deposit Insurance At Banks." There will be a run on the banks for their money. There will be a credit crunch at the banks. The economy will suffer.

The main reasons banks fail are bad loans to Third World countries, unwise corporate takeovers, and terrible loans and investments in real estate.

I would also urge Members as we go into House bill 6, the banking bill, to reject title IV. It was not written by the Committee on Banking, Finance and Urban Affairs, nor the Committee on Energy and Commerce.

I would urge Members to vote against title IV because it will definitely cripple the banks' ability to attract capital, and that, Mr. Speaker, will make your banks unable to continue to loan money to your constituents, including small businesses.

Mr. Speaker, if bank bashing is what is popular in your district, then title IV today under House bill 6 should be your vehicle. But I would urge Members to consider the fact that we are going to make banks less competitive and less capable of attracting capital if we pass House bill 6's title IV.

Mr. Speaker, again, look closely at title IV. I urge Members to vote no on title IV.

Mr. DREIER of California. Mr. Speaker, I ask unanimous consent that the gentleman from Kentucky [Mr. HUBBARD] be given an additional minute to continue with his argument.

Mr. FROST. Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman is entitled to only 1 minute. The House does not extend 1-minute speeches.

PROVIDING FOR FURTHER CONSIDERATION OF H.R. 6, FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 266 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 266

Resolved, That during the further consideration of the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, a period of general debate shall be in order. After this general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. When the Committee of the Whole resumes its sitting on H.R. 6 on the next legislative day, an additional period of general debate shall be in order, to be confined to the bill and the amendments made in order by this resolution and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. After this period of general debate, the Committee will resume consideration of the bill under the five-minute rule in the manner specified by this resolution. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text entitled "Committee Print, October 30, 1991" as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report and shall be considered as having been read. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report of the Committee on Rules. Where the report of the Committee on Rules specifies consideration of amendments en bloc, then said amendments shall be so considered, and such amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. It shall be in order at any time for the chairman of the Committee on Banking, Finance and Urban Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendment which are germane thereto, printed in the report of the Committee on Rules. Such amendments en bloc, except for any modifications, shall be considered as having been read and shall be debatable for not to exceed twenty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. All points of order against the amendments en bloc are hereby waived. The original proponents of the amendments en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc. Such amendments en bloc shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole. If both amendments numbered 8 and 9 are adopted, only the latter amendment which is adopted shall be considered as finally adopted and reported back to the House. All points of order against the amendments in the report of the Committee on Rules are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1050

The SPEAKER pro tempore. (Mr. MCNULTY). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. Any time yielded during debate on House Resolution 266 is for the purpose of debate only.

Mr. Speaker, House Resolution 266 provides for the further consideration of H.R. 6, the Financial Institutions Safety and Consumer Choice Act. As Members know, the House adopted House Resolution 264 yesterday and conducted 1 hour of general debate on the bill last night. House Resolution 266 makes in order the text for the consideration of the bill for amendment, additional general debate time, and for the consideration of amendments to H.R. 6.

Mr. Speaker, the Committee on Rules, faced with the enormous difficulty of not only structuring a rule and deciding which among the 78 amendments proposed to the committee should be included in the rule, but also with the necessity of preparing a text that would serve as an amendment vehicle for H.R. 6, has devised a rule which will allow the issues contained in this bill to be fully aired and debated. While some amendments proposed to the committee were not ultimately included for consideration, the committee feels that the recommended rule will allow the House to debate the major issues relating to banking and banking reform and will allow the House to work its will on a comprehensive bill.

Mr. Speaker, House Resolution 266 provides for 2 additional hours of gen-

eral debate on the bill. The first hour, which is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, shall be in order on the first legislative day the bill is considered. The rule also provides for 1 additional hour of general debate on the bill, to be equally divided and controlled by the chairman and ranking minority member of the Banking Committee when the Committee of the Whole resumes its sitting on H.R. 6 on the next legislative day.

After general debate on the first and second legislative days, the rule provides that the bill shall be considered for amendment under the 5-minute rule in the manner specified in the resolution. House Resolution 266 also provides that in lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text entitled "Committee Print, October 30, 1991" as an original bill for the purpose of amendment under the 5-minute rule. The rule also provides that the substitute shall be considered as having been read and waives all points of order against it. The text of the substitute, except for title IV, consists of the texts of the versions of the bill reported by the committees of jurisdiction. Title IV of the substitute, however, contains the text of that title drafted by the chairmen of the Committees on Banking and Energy and Commerce. The Committee on Rules recommends this substitute text for consideration as the amendment vehicle in order to simplify the consideration of a complex legislative package.

Mr. Speaker, the rule provides that no amendment to the substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. If I may, I would like to take a few minutes to explain the amendment procedure which we will follow over the next 3 legislative days.

First, the rule provides that the amendments shall be considered in the order and manner specified in the report, that they shall be considered as having been read, and waives all points of order against the amendments in the report. The amendments will be debated under the time limitations detailed in the report and such debate time is to be equally divided and controlled by the proponent and a Member opposed and will not be subject to amendment except as specified in the Rules Committee report.

The rule further provides that the Vento and Richardson amendments to title III of the bill, relating to interstate branch banking, will be considered under king-of-the-hill procedures. King-of-the-hill provides that only the last amendment adopted will be reported back to the House.

The rules also provides that the chairman of the Banking Committee may, at any time, offer amendments en bloc, consisting of amendments which are printed in the report and germane modifications to those amendments. The en bloc amendments, except for any modifications thereto, shall be considered as having been read and shall be debatable for not to exceed 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Banking Committee. The rule waives all points of order against the en bloc amendments and provides that they shall not be subject to amendment, or to a demand for a division of the question in the House or the Committee of the Whole. In addition, the rule provides that the original proponents of the en bloc amendments shall be permitted to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the en bloc amendments.

Finally, Mr. Speaker, the rule provides that at the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, in order to clearly define the debate on the complex issues contained in H.R. 6, the debate on the various titles of the bill will be considered on specific days. Today, following general debate, it is anticipated that title I, safety and soundness, and title IV, financial services modernization, will be considered. Tomorrow, Friday, following the second additional hour of general debate, title III, nationwide banking and branching, will be considered. On Monday, it is anticipated that title II, regulatory improvement, and title V, Federal deposit insurance reform, will be considered. And, as provided in the rule, the en bloc amendments which may be offered by the chairman of the Banking Committee, will be eligible for consideration at any time.

Mr. Speaker, H.R. 6 represents the work of five committees of the House and represents the first major restructuring of the banking industry since the Great Depression. The bill seeks to provide not only a recapitalization of the bank insurance fund, but also to reform the Federal Deposit Insurance system and to ensure, in these times of fiscal uncertainties, the safety and soundness of our Nation's banks. The bill proposes major changes in the way banks do business and the types of business they conduct. H.R. 6 is a bill of major importance and deserves the full attention of the House and its Members. The Committee on Rules has structured a rule which the Committee believes will allow Members the opportunity to make important decisions about the future direction of the banking industry in our country. I urge adoption of the rule in order that the House may proceed to the consideration of this most important legislation.

□ 1100

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to House Resolution 266, which provides for the consideration of an extraordinarily perverted version of H.R. 6, which used to be known, by the now misleading moniker, as the Financial Institutions Safety and Consumer Choice Act of 1991. The leadership is taking Halloween a little too seriously when it has to disguise protectionist legislation as banking reform.

This rule, Mr. Speaker, is an affront to the legislative process, to the House committee system, and to my Banking Committee colleagues—on both sides of the aisle—who have toiled for nearly a decade to update our Nation's financial laws and regulations. It also continues the trend of shutting most Republican Members out of the amendment process.

Mr. Speaker, after a decade of exhaustive hearings on the issues of structural reform, deposit insurance reform, and regulatory reform, the Banking Committee reported out a landmark bill, H.R. 6, this past June 28. The 32-to-20 vote showed that there was a strong, bipartisan consensus that H.R. 6 was the vehicle that would allow our banking system to leap out of the 19th century—that is right, the 19th century—and into the direction of the 21st century as we approach the millennium.

The Energy and Commerce Committee, on the other hand, has really not undertaken the same type of comprehensive review of these issues. But in fairness, that committee did report out a bill by a vote of their entire committee on September 25.

The problem, Mr. Speaker, is that the bill, made in order by this rule, is neither the one adopted by the Banking Committee nor the one approved by the Energy and Commerce Committee. Rather, it incorporates a so-called compromise agreed to by only four-tenths of 1 percent of all of the Members of the House. The bill made in order by this rule was not voted on in either the Banking Committee or the Energy and Commerce Committee.

Mr. Speaker, I hold in my hand the committee print of the bill. We were in session late last night, and I suspect that my colleagues on the Rules Committee probably have not had time in the last 10 hours to read it, and frankly I have not either.

Furthermore, this rule structures the bill and the amendments to guarantee that we will be faced with a choice between supporting a bill that turns back the clock on financial market innovation, or killing the bill outright. Under both scenarios, Mr. Speaker, the taxpayers lose because they will have to shoulder the financial burden of cleaning up a tattered banking industry.

Imagine, if you will, Mr. Speaker, a scenario whereby the House is considering a comprehensive health care industry reform bill, and we are presented with a compromise agreement that would require all doctors to utilize the medical techniques of bloodletting. In many respects, the Dingell-Gonzalez substitute is similar in that it would require the banking industry to operate under an ancient set of rules and procedures.

For example, to justify the prohibition against mixing commerce and banking, they reach back to the British Parliament's charter of the Bank of England in 1694. There are two ironies in this, Mr. Speaker. First, it is that same Bank of England that now advocates affiliations between commercial firms and banks, something that virtually every other industrialized country permits.

Second, banking and commerce already mix, albeit on a one-way street. Ford Motor Co., General Electric, American Express, and Sears all have FDIC-insured subsidiaries. But the more than 9,000 banks are precluded from accessing billions of dollars in capital held by commercial firms.

The H.R. 6 this rule makes in order is the Freddie Kruger of banking legislation. It will increase foreign ownership of U.S. banking assets because our banks will have few domestic sources of capital to restore their profitability. It will prohibit banks from taking advantage of new innovations in the development of financial products and services, insuring that more banks will fail.

And what does the industry get in return? It gets a duplicative set of regulators, more paperwork reporting requirements, and higher insurance premiums. Mr. Speaker, the Glass-Steagall Act was progressive legislation compared to the Dingell-Gonzalez bill, which is highly regressive, blatantly protectionist, and anticonsumer.

This rule is a perversion of the legislative process, and it lacks basic fairness to Republican Members who deserve to have their amendments considered by the full House. Therefore, I strongly urge a no vote on this rule. Let's come back with an open rule.

Some people are opposed to that. I believe though that we should allow the Members of this House to work their will.

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

Mr. FROST. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Georgia [Mr. BARNARD], the senior member of the Committee on Banking, Finance and Urban Affairs and chairman of the Banking Committee Caucus of Democrats.

Mr. BARNARD. Mr. Speaker, I thank the gentleman from Texas for permitting me to have this time.

If the gentleman would permit me to indulge him in several questions, I would appreciate it very much.

I would ask the gentleman from Texas [Mr. FROST], can he explain to me the justification of the Rules Committee in not permitting an amendment in order to consider the House Committee on Banking, Finance and Urban Affairs' version of title IV?

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, in response to the gentleman I would say the decision was made by the Rules Committee in consultation with the Democratic leadership of the House. The decision was made to make the compromise agreement agreed to by the chairs of the two committees, the gentleman from Texas [Mr. GONZALEZ], and the gentleman from Michigan [Mr. DINGELL], the original text in order to simplify consideration of this very controversial legislation.

I cannot fully respond as to why once that decision was made then it would not be possible at a later point to substitute the original text as reported by the Committee on Banking, Finance and Urban Affairs. It was simply my understanding that it was a decision made to streamline consideration of this legislation and to place as original text an agreement made by the chairman of the two committees of original jurisdiction.

Mr. BARNARD. Let me just say then that I really think in consideration of that the rights of the House Committee on Banking, Finance and Urban Affairs have been tremendously violated. We considered this legislation for 5 months. We had adequate hearings. We spent time, we deliberated, we debated, and we came out with a 30-to-20 vote on this legislation.

When I talk about that, the leadership comes back and says yes, but the majority of Democrats did not vote for the bill. Let me say that is irrelevant. The relevancy is that out of 51 members of the Banking Committee there were 30 votes who voted for it. It is a committee of jurisdiction. It is a committee of legislation. It ought to be recognized. And I think it is dastardly, and I hate to say this about my leadership, but it is dastardly that they have violated the rights of that many Democrats as well as all of the Republicans on the Banking Committee.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank my friend for yielding. I would like to associate myself with his remarks and underscore the fact that the gentleman is the chairman of the Democratic Banking Caucus Working Group. Could he explain what that is?

Mr. BARNARD. The gentleman is correct, that is what it is.

Mr. DREIER of California. I have explained it correctly?

Mr. BARNARD. The problem is even the Democratic Caucus did not have time to consider and vote on this proposed compromise. We did have a briefing.

Mr. DREIER of California. Mr. Speaker, I ask my friend, has he read this overnight?

Mr. BARNARD. No. I had to be on the floor last night until about 11 o'clock, so I did not do so. I did not have the ability to read that.

Mr. DREIER of California. I wanted to make sure, because the gentleman is very expert on these issues, and I assumed he might have had a chance overnight to read it.

Mr. BARNARD. Mr. Speaker, I want to say that except for this the Rules Committee I think has done a good job. They have been very selective in the amendments that have been selected to be offered, and they are for the most part the most appropriate amendments to be considered in light of what the bill does.

□ 1110

I think an open rule, with all due respect to my friend, the gentleman from California, an open rule would be a disaster, and I will compliment the gentleman.

But I will have to say that I feel a real disservice has been done to the committee process of this House when a legitimate committee of jurisdiction is absolutely ignored.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE], the very hard-working ranking member of the Committee on Banking, Finance and Urban Affairs who has toiled for many decades on this matter.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding me this time and for the compliment, and I would return the compliment to the very hard-working young man in the Rules Committee, who has also been a member of the Banking Committee at one time, and a distinguished member at that.

Mr. Speaker, I express opposition to the rule with some regret. I say regret, because I know that the committee chairman, the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from Texas [Mr. FROST] worked diligently to bring this important leg-

islation to the floor today, and we do need to act on it expeditiously, in my judgment, and the Rules Committee was very courteous to me when I appeared before them.

My primary opposition stems from the fact that we were not able to get a vote on the Banking Committee title IV. It is the same regret that the gentleman from Georgia [Mr. BARNARD] expressed a little while ago. I still think title IV, as reported out by the Banking Committee, is much better than the Dingell-Gonzalez arrangement, which was made in order as part of the original text. No committee consideration was ever given to the Dingell-Gonzalez title IV.

This procedure does not lend itself to bipartisanship. The politics of this bill are difficult enough as it is.

I appreciate the committee making in order an amendment to be offered by the gentleman from Texas [Mr. GONZALEZ] and myself on the insurance of multiple accounts.

We appreciate the making in order of a failing bank amendment. Although I think it should more properly have been made in order in title IV, it was made in order in title IV, which muddies up the issue to some extent in this Member's opinion.

There were two amendments I wanted to offer to modify the very restrictive firewalls in Dingell-Gonzalez, which were not made in order, and yet an amendment by the gentleman from Massachusetts [Mr. NEAL] which calls for duplicative and expensive reporting requirements, which will also be very expensive, was made in order.

An amendment by the gentlewoman from California [Ms. WATERS] to cap fees banks can charge for 2 years was made in order.

Price control by any other name would smell as sweet.

A Kennedy amendment requiring the use of racial testers to investigate charges of discrimination in lending practices was made in order.

Another amendment to give $500,000 deposit insurance coverage to nonprofit organizations, which could include a Member's campaign fund, was made in order. Give us a break, Mr. Speaker.

Another amendment would extend Federal health insurance coverage to former employees of failed savings and loans and banks.

What about steelworkers? What about textile workers or airline employees?

This amendment should never have been made in order.

The gentleman from Kansas [Mr. ROBERTS] wanted to make in order an amendment to give some relief to small banks to moderate the impact of the Community Reinvestment Act. It was not made in order.

As a matter of principle, I do not like the language with reference to the en bloc amendments, although the chairman, the gentleman from Texas [Mr. GONZALEZ] did consult me and withdrew three suggested en bloc amendments which I found particularly objectionable.

My real beef is with the procedure. It is not very democratic to small "d". The will of the clear majority of the Banking Committee has been frustrated, and I plan to vote "no" on the rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

Mr. Speaker, I rise in strong opposition to this rule and in fact if the rule is not defeated, strong opposition to this entire piece of legislation.

Mr. Speaker, welcome, the American people and Members of this Congress, welcome to the S&L bailout part 2. This time instead of bailing out the S&L industry, we are going to be asked to the potential of $30 billion—and most people expect it will be more down the road—to start bailing out the commercial banks.

Mr. Speaker, I offered a very simple amendment to this complex piece of legislation, and I said, "What happens if the banks are not able to raise the money themselves and it is the Treasury and the American people who have to come up with this $30 billion?"

I asked two questions. No. 1, a very simple question, who is going to be paying this $30 billion when they dump it into the deficit? It is going to be the elderly, the working people and the poor, or are we going to build into this legislation a mechanism to say that the wealthiest people in this country whose incomes have soared over the last decade, whose tax burden has declined, that maybe they should pick up the burden and not the middle class and not the working poor of this country. That did not get into this rule.

So you have got $30 billion on liability. Nobody knows who is going to pick up the burden, but I have got a hunch that it is the same people who are going to pick up the $500 billion for the S&L's.

I would like, if I might, to ask the distinguished gentleman from Texas a question.

I would like to ask the gentleman from Texas [Mr. FROST] am I right that we are talking about a potential of $30 billion to be fostered on the taxpayers?

Mr. FROST. Mr. Speaker, if the gentleman will yield, I say to the gentleman from Vermont [Mr. SANDERS] that I cannot answer questions about the substantive provisions of the bill. The gentleman will have to ask that to a member of the committee as to the exact dollar amount of obligation that the taxpayers will face.

Mr. SANDERS. Maybe I can ask this of the gentleman from Texas [Mr. FROST].

Is it not a bit strange that when in fact we are talking about a $30 billion taxpayer liability that this bill does not answer the question as to who is going to pick it up?

Mr. FROST. I say to the gentleman from Vermont [Mr. SANDERS] that he is entitled to his opinion, to his view. The committee did try to structure a fair rule that would enjoin the major issues that were before the Congress. The gentleman obviously feels strongly about this matter.

Mr. SANDERS. I surely do.

Mr. FROST. I assume the gentleman will then vote against the bill on final passage.

Mr. SANDERS. I surely will.

Mr. Speaker, two issues: No. 1, the payback must be pay-as-you-go so that we do not stretch it out over 30 years and add tens of billions of dollars in interest payments.

No. 2, the wealthiest people of this country must finally start to pay their fair share of taxes, not the working people, to bail out the commercial banks.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the very distinguished and thoughtful gentleman from New York [Mr. LENT], a member of the Committee on Energy and Commerce.

Mr. LENT. Mr. Speaker, I rise in opposition to this rule and strongly oppose it, because our request to have an amendment on the important issue of failed or failing banks made in order as submitted to title I was denied by the Rules Committee. The amendment which was filed with the Rules Committee last Friday by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New Jersey [Mr. RINALDO], the gentleman from Ohio [Mr. WYLIE], the gentleman from Georgia [Mr. BARNARD] and myself amended a certain provision of the Federal Deposit Insurance Act. The amendment provides that a financial services holding company could acquire a failed or failing bank only with the prior approval of the Federal Reserve Board and subject to a determination by the FDIC that that acquisition satisfies the FDIC obligation to an institution's insured depositors at the least possible cost to the Deposit Insurance Fund. So these matters are properly addressed in title I.

What the Rules Committee did, apparently, was to reassign this amendment to title IV, which deals with a completely different statute, so we are not now dealing with a law concerning diversified holding companies which was taken out by the Energy and Commerce Committee. Those provisions were completely removed from title IV.

The amendment deals with the obligations and authority of the FDIC under a completely different statute.

I think the rule confuses the issues most unnecessarily. It is a difficult bill

to understand to begin with, but it is really muddled up as a result of the way the rule is drawn.

So Mr. Speaker, I urge my colleagues to vote against the rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for yielding me this time.

Mr. Speaker, I rise in support of the rule, with the intention at this point of dispelling some of the mistaken notions which have already been put out here on the floor this morning and which I expect will be heard on a continuous basis in the course of the day.

This whole question of whether or not Commerce should be merged with Banking is one that has basically been accepted in terms of a separation created for the history of our country.

□ 1120

In fact, if you look across the globe, there is no country in the world which even remotely approximates what is being proposed by the administration in terms of taking down this distinction between allowing, for example, an IBM to purchase Citicorp, to have the built-in conflicts of interest, to have the potential for self-dealing, to have real questions raised with regard to credit allocation which would be so difficult to monitor out in the real world marketplace.

Now, these are not issues, however, that have escaped the attention and the analysis of some of the most distinguished people in our country.

Let me begin by giving you some of their comments. Let us begin with Chairman Paul Volcker, chairman of the Fed, for many years, one of the most distinguished Americans. Here is what he has to say on that subject:

> Where the line should continue to be drawn is between banking and commerce. Fuzzy as that distinction may be at the margin, the overriding public policy interest remains strong.

Let us talk about Gerald Corrigan, president of the Federal Reserve Bank of New York. Here is what he has to say on the issue:

> The potential benefits strike me as remote at best and illusory at worst.

Charles Bowsher, head of the GAO:

> I think you're setting yourself up for mega-bailouts down the road.

If you allow for the destruction of this commerce/banking separation.

Remember this is on the heels of an already $200 billion bailout of the S&L's, heading toward three-quarters of a trillion before the end of this decade.

Let me go on. Henry Kaufman, one of the most distinguished economic observers in our country. Here is what he has to say:

> Merging banking and commerce ultimately puts in jeopardy the fundamental economic democracy of this country and undermines the crucial need for independent deposit institutions exercising objective credit judgments.

Let me move on to the former Council of Economic Advisers chief, Herbert Stein, Richard Nixon's top economic adviser. Let me tell you what he has to say about the subject.

> There is little reason to think that non-financial businesses will be more willing to put capital in banks than the ordinary investor would, unless the non-financial business sees an opportunity to gain from the connection something other than the return on equity. This opportunity is likely to mean some form of self-dealing that is illegitimate.

And finally, just to go to the other side of the aisle, Ralph Nader agreeing with Paul Volcker, agreeing with Herb Stein:

> Letting commercial firms buy banks creates an irresistible temptation for conflicts of interest and self-dealing.

Mr. Speaker, this is an historic issue.

The gentleman from California points out that for 297 years this Anglo-Saxon tradition has been accepted inside of our country, and I would hope that we could, in fact, resist this temptation to not help banks grow their way out of trouble but, in fact, grow their way into trouble by associating with corporations in this country who do not have the expertise to be able to manage the banks any better than the bankers themselves have done over the last decade.

Mr. DREIER of California. Mr. Speaker, let me yield myself such time as I may consume in order to simply respond to my friend from Massachusetts by saying it is apparent that Herb Stein, Ralph Nader, Gerald Corrigan, Paul Volcker and Henry Kaufman all had the opportunity to vote on this, but tragically the members of the Committee on Energy and Commerce and the members of the Committee on Banking, Finance and Urban Affairs did not have that opportunity.

Mr. BARNARD. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from Georgia.

Mr. BARNARD. I thank the gentleman for yielding.

Mr. Speaker, I simply would like to say that those who rely upon Paul Volcker, Gerald Corrigan and Herb Stein as far as this issue is concerned, do they disagree with what they have done on their provisions in the bank holding company bill to permit bank holding companies to get investment powers? All of them have been very supportive. Therefore, it came out of the Federal Reserve that bank holding companies could underwrite various things.

Now, all of a sudden, I say to the gentleman from Massachusetts [Mr. MARKEY] those are the things which the Committee on Energy and Commerce have stricken from the bill. If you put so much reliance in the veracity and the support of Paul Volcker, you have ignored Paul Volcker and Gerald Corrigan in permitting bank holding companies to get into allied fields.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER], the ranking member of the Subcommittee on Policy Research and Insurance.

Mr. BEREUTER. Mr. Speaker, while I oppose the rule, I would begin by expressing my most sincere appreciation for making in order the Vento-Bereuter interstate branching opt-out amendment which now has broad, bipartisan support. However, during Rules Committee consideration of H.R. 6, this Member also filed an important, badly needed amendment to amend the Federal Deposit Insurance Act to clarify the liability of depository institutions and other lenders, as well as the liability of the FDIC and RTC, to pay for costs associated with hazardous waste cleanup.

The amendment was a more limited version of H.R. 1450, a measure introduced by the gentleman from New York, Mr. JOHN LAFALCE, and which as of today, has an incredible 268 cosponsors.

This Member was disappointed to learn that despite the overwhelming support in this body for clarifying the liability of affected parties, such as lenders, under Superfund and other environmental cleanup statutes, the Rules Committee elected not to make the amendment in order for consideration during the debate on H.R. 6.

For the last two Congresses, lender liability has been covered extensively in numerous hearings held by the Small Business, Energy and Commerce and Banking Committees. Action is long overdue and H.R. 6 would have been one appropriate place to at least partially address the issue.

Today, this Member would like to urge the relevant committees of jurisdiction to act soon to clarify the liability for cleanup under the Superfund law.

In 1980, as Congress debated Superfund legislation, it determined generally that owners and operators of property should be liable for a release or threatened release of hazardous materials in the environment where a response action was necessary. As in the case of lenders, Congress further determined that parties who held indicia of ownership should not be liable if that indicia was primarily related to protecting a security interest. In other words, if you have a relationship to a piece of property not in order to own or operate it, but primarily to use it as collateral for another obligation, then no liability should be attached.

However, conflicting court opinions have substantially clouded the issue—and made lenders wary of extending credit to individuals and businesses.

Many of us have received letters from constituents stating that it has been the very threat of potential liability for cleanup costs that has forced lenders to stop lending to businesses and farmers.

As a Member representing a rural constituency, I can attest to the problems facing small banks, as well as the farmers and agribusinesses seeking to borrow money. Uncertain of their liability, small banks are now resorting to costly environmental site examinations to protect themselves from liability.

In addition, FDIC has indicated that it is entirely possible that a bank that may have originally held only a 10-percent participation in a syndicated loan would be responsible for 100 percent of the cleanup costs if that bank is the only lender still operating.

It is also disturbing to read Federal Reserve and FDIC surveys showing that some lenders have stopped making loans to certain types of small businesses, such as dry cleaners and gasoline stations, that are often associated with environmental problems. Or that fiduciaries have withdrawn from estates, solely because they may be liable for contaminated property in their holdings—even though they had no specific knowledge of the nature of the property when they assumed the trust.

With the lengthy list of cosponsors of the LaFalce legislation and the great amount of interest in the issue generated in recent committee hearings, it is clear that the issue of lender liability deserves full House consideration.

Mr. Speaker, this Member urges timely action to—once and for all—move legislation to resolve the question of liability. Instead of fostering a climate in which lenders are willing partners in overall efforts to clean up the environment by loaning necessary funds, the uncertainty of lender liability is denying the financial resources to those businesses that need them most.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MCCANDLESS], another hardworking member of the Committee on Banking, Finance and Urban Affairs, who represents the magnificent desert of California.

Mr. MCCANDLESS. Mr. Speaker, I thank the gentleman for yielding time and for his kind words.

Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, the patient before us needs major surgery—and all we are doing is applying Band-Aids.

The Treasury Department sent us a comprehensive proposal to reform our financial industry and to enable our banks to compete in the world markets.

The legislation before us is a mere shadow of what was proposed.

Comprehensive regulatory restructuring is out.

The ability of banks to attract desperately needed domestic capital is out.

Major reform of the deposit insurance system is out.

Restructuring of financial services is out.

Allowing banks to diversify their geographic location is greatly watered down.

All that is left are the Band-Aids.

This isn't banking reform—it's a formula for disaster.

Mr. Speaker, the rule should be defeated.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. I thank the gentleman from Texas for yielding to me.

Mr. Speaker, I am going to vote for this rule. It was an extraordinarily difficult job that the Committee on Rules had put upon it. There are no perfect solutions to this sort of thing, but it does seem to me that we have a rule which structures the debate in a way that all the major questions would be posed.

□ 1130

And if they are not answered, it will not be the fault of the Committee on Rules. It will be the fault of a certain tentativeness that still exists in the body.

I wanted to use this opportunity, Mr. Speaker, because there is a limited amount of debate time under the rule to address some of the general issues that are here. I have to say that I find myself on a different side from some of the people with whom I am usually on line here, and I have to confess, Mr. Speaker, that, while I think my attendance record has been a pretty good one, I think I was absent the day we decided that being a good liberal meant protecting the securities industry against the competition because I think that is part of what we are talking about here. I have generally sided with, and will continue to side with, the view that consumers are entitled to protections against various forms of commercial practice.

Mr. Speaker, I have an amendment myself today that I think is fairly widely supported that would create an affordable housing program under the FDIC. I would be working hard for the amendment of the gentleman from Massachusetts [Mr. KENNEDY], my colleague, for tougher rules, and, regarding Community Reinvestment Home Mortgage Disclosure Act enforcement, not changing, as I understand it, the substance. I think where we are talking about disclosure, where we are talking about various forms of consumer protection, we should be very tough.

The major questions that come before us though and the various disputes about title 4 are on the question of consumer versus industry. No one is proposing, to my knowledge, allowing anybody to do something that somebody cannot already do. No one is talking about letting the banks do something that is not already being done.

So, what we have here I think is somewhat misperceived by some of my friends as a difference between the consumers somehow and various forms of commercial entities. In fact, what we have got, as I see, is a horizontal fight. We have got the banks, the insurance companies, the securities industries, all of which would like not to have much competition from the other, or many of which would. And the attitude, I must say, of the securities industry here reminds me, if I may quote a former Senator who was chairman of the Commerce Committee, and I am sure that I may, former Senator Maguson, who said, after being chairman of the Commerce Committee, he thought all any business in America wanted from Government was a reasonable advantage over the competition.

I think it is important that we protect the consumer, but I do not understand why it is liberal doctrine to protect Ma and Pa Salomon, or Merrill Lynch, or the securities industries. I think competition is a useful thing. Some of us do feel that other entities than banks should be able to get into the banking business. That is why I support the failed bank amendment and that banks can usefully get into some other business.

But the point we ought to make clear is this: No one is talking about relaxing any of the rules under which any of those activities take place. In fact, this legislation would, and I think in a relatively uncontroversial way, and certainly the broad consensus, tighten the rules. I want there to be tightened rules on the way various of these businesses are conducted, but once we have tightened the rules, and put in the regulatory upgrades and the consumer safeguards, I do not understand why it became good liberal doctrine that entities A, B, and C should be allowed to do this, but not X, Y, and Z.

Mr. Speaker, it seems to me all we have got is an anticompetitive situation. The securities industry was very eager to be protected against competition. I understand that it is a natural human reaction. Even incumbents sometimes feel that way. But it does not seem to me that it rises to the level of principle that has been put forward here.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey [Mr. RINALDO] who is going to be offering one of the most important amendments in this bill.

Mr. RINALDO. Mr. Speaker, there are a number of reasons why this rule should not be adopted. The key one,

however, is the forced shifting of my amendment to allow commercial firms to purchase failed and failing banks from title I to title IV.

H.R. 6, as passed by the Banking Committee, created a diversified holding company structure that would have allowed commercial firms to buy banks. That provision was included in title IV.

The Rules Committee has made the Dingell-Gonzalez substitute, which was never considered by either committee, the base text for today's debate. Their title IV has no mention of the diversified holding company and does not allow any commercial firm to buy a bank.

My amendment is an effort to save taxpayers money. It was drafted to amend title I. It mentioned the least cost resolution provision of the Federal Deposit Insurance Act to allow commercial firms to buy a failed or failing bank only if the FDIC ruled that it was the least costly way to deal with a specific failed or failing bank.

There is no reason to link my efforts to save taxpayers dollars to the section dealing with bank powers. My amendment does not grant any bank any new powers.

It is designed to reduce the cost of dealing with the 200 plus failed banks that the FDIC will have to resolve each year for the next few years. Placing it in title IV is unnecessary and unfair.

I urge the defeat of this rule.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2½ minutes to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, H.R. 6 was sequentially referred to the Committee on Agriculture for consideration of matters within our jurisdiction under rule X. As far as it is relevant to this bill, the committee's jurisdiction is over extensions of agricultural credit; rural economic development; and agriculture generally.

Mr. Speaker, it became clear very early that this bill, as reported by the Banking Committee, held ominous consequences for rural America. We recognize that the Banking Committee has the greatest expertise over the general aspects of banking policy. But the House has specifically and deliberately charged the Committee on Agriculture with jurisdiction over agricultural credit and over rural development—and we take our responsibility seriously.

Mr. Speaker, many of my colleagues will oppose H.R. 6 on its merits because they believe that it is not good bank regulatory policy. In the Committee on Agriculture, we recognized and documented the great concerns that many experts on rural development had regarding the failure of the bill to reflect the interrelationship between banking policy and the particular needs and structure of the rural economy.

Mr. Speaker, I have the greatest respect for the members of the Committee on Rules and for its chairman and I am grateful for the fact that they acted to help resolve some of the technical concerns in the Banking Committee's bill that were in our jurisdiction.

I will oppose the bill H.R. 6 for many reasons, but also because two amendments adopted by the Committee on Agriculture intended to mitigate what we believe are glaring problems with the bill were not made in order.

Mr. Speaker, I am saddened that the Rules Committee—in recommending this rule—has completely ignored the expertise of the Committee on Agriculture in the area of rural economic development. One amendment in particular represents a modest step to ensure that the new powers granted by the bill to allow big banks to open interstate branches don't suck capital out of rural economies. The Agriculture Committee's amendment modifies regulatory review of interstate branch provisions of the Banking Committee's bill to require that regulators scrutinize the community lending activities of an interstate branch upon a finding that local deposits are not being loaned locally.

The other amendment of the Committee on Agriculture not made in order relates to the clarification of passthrough of deposit insurance for funds of futures market customers. Mr. Speaker, our committee has jurisdiction over the regulation of futures markets and adopted our amendment out of concern that the Banking Committee's provisions could have unintended consequences on futures markets. Yet the Rules Committee has prevented the House from even clarifying this matter.

Mr. Speaker, I am very concerned that the Rules Committee has not even allowed the House the opportunity to consider our modest amendments. Something is wrong here. The banking bill is obviously being considered in some kind of vacuum and the concerns, interests, and needs for rural America are specifically being laid aside.

Mr. DREIER of California. Mr. Speaker, I would like to associate myself with the remarks of the distinguished gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture.

Mr. Speaker, I yield 2 minutes to the gentleman from Tucson, AZ, Mr. KOLBE.

Mr. KOLBE. Mr. Speaker, I rise today to oppose the rule and speak out against title IV as it has been made in order by the Rules Committee.

Out-of-date laws designed to protect banks from competition have become barriers—barriers that impede banks from adapting to changed market conditions and providing consumers with the products and services they need.

These barriers have hampered our ability to compete in global markets and have unleveled the playing field for providers of financial services. Clearly there is reason to overhaul an outdated system, thus the reason for my support of H.R. 6, as reported by the House Banking Committee.

My support for H.R. 6, as reported by the House Banking Committee, stems from concerns that the so-called Dingell-Gonzalez compromise would inflict anticompetitive and punitive restrictions on banks that would eventually trick the taxpayer into paying for future bank bailouts by exacerbating the credit crunch and the recession. Let me explain.

In most industries, companies diversify to avoid having the inevitable cyclical downturns in a single market sector destroy the profitability of an entire corporation. Banking, however, is a regulated industry in which banks must get permission from their regulator before embarking on a new enterprise. Current law does not allow banks to engage in any business activities that are not reasonably related to banking, and as such they are trapped in an industry which is contracting in size.

Yet, competitors of banks—financial services industries, securities firms, mutual funds, insurance companies—all operate without similar restrictions against diversification. They have adapted to the changing economic environment more rapidly and, in many cases, more successfully.

Under current law, companies like Sears, JCPenny, Montgomery Ward, American Express, and many others already own FDIC insured banks. Fortune 500 companies hold $719 billion in capital that could be used to shore up our banking system. If strong firewalls, reporting requirements, and capital standards are all in place—as I believe H.R. 6, as reported by the Banking Committee provides—then banks should be allowed to diversify and expand into related businesses just as nonfinancial holding companies should be allowed to acquire banks. Citicorp, the United States' largest bank should not have to turn to a Saudi Prince in order to raise new capital.

For me one of the strongest incentives for supporting this provision from the Banking Committee is the hope that corporate America will see the opportunity to acquire troubled banks, cheaply, reorganize and recapitalize them, and bring new and better management techniques to the banks to make them profitable.

Existing restrictions on interstate banking and branching should also be lifted. H.R. 6, as reported out by the Banking Committee, eliminates these restrictions. Under current law, a California bank may open a branch in Birmingham, England, but not in Birmingham, AL. These restrictions just don't cut it in the 1990's. Interstate branching increases geographic diver-

sity and reduces vulnerability to regional economic downturns.

Arizona is a good example of this; had we not had interstate banking, many of our banks would have failed in the recent near collapse of real estate values.

The objective of interstate banking and branching is to increase competitiveness and choice. Consumers benefit from greater access to banking services and a broader range of products. And greater profits and increased capital improve the safety and soundness of our banks.

If title IV remains in H.R. 6, Congress will have done little to promote fair competition, strengthen the banking system, encourage new entrants into the financial services market, or develop the level playing field so often touted on both sides of the issue.

□ 1140

Mr. FROST. Mr. Speaker, we have very little time left, and for purposes of debate only, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Speaker, I rarely oppose rules. I certainly oppose this one.

Later this evening American children all over our country are going to go trick or treating, but we are not waiting for nightfall to start the trick or treating right here in Congress. We are going to give a great treat to our friends in the insurance industry. We are saying to them, we are going to protect you from competition, and here is how we are going to do it. We are going to continue to allow State-chartered insurance companies that own banks to market those banking products to their insurance policyholders all over the world. However, if you happen to be a State-chartered bank that owns an insurance company and want to market your insurance products to your banking customers across America, we are going to greatly curtail that activity to the extent that we can.

Well, that may be a treat for the insurance companies. It is not a treat for consumers. The trick, I say to my friends, is on consumers.

I oppose this rule. Later today I will join the gentleman from Georgia [Mr. BARNARD], the gentleman from Nebraska [Mr. HOAGLAND], and others in offering an amendment to strike title IV. I wish we did not have to do that, but we need to do it.

The principal reason why banks are failing today, Mr. Speaker, is because much of their traditional business has been siphoned off by other offerers of financial services. They tell us:

Don't get your car loans now from a bank. Get them from Chrysler, Ford, or GMC Financial. Don't get your home loans from banks, get them from Sears. Don't get your multipurpose credit cards from banks, get them from Prudential, AT&T, USAA, or somebody else. If you need a business loan, go and see your underwriter, but don't see a bank.

How we can say that this legislation in some way is going to revive the banking industry blows my mind.

Here we are with an industry that is failing, that is in trouble, and we are going to load them down. We are going to load them down with additional regulation and supervision, some of it needed, while we further restrict the ability of banks to compete fairly with the insurance industry and with the securities industry. If this makes sense, I will eat the rest of this microphone.

Mr. Speaker, we should defeat this rule. If we do not defeat the rule, by any standard we must strike title IV.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, this rule is not really hard to understand. It is just hard to believe.

We are in the middle of a banking crisis like we have never seen in this country before, and what does the Congress suggest with the adoption of this rule? Certainly we all believe tough, strong, careful, fair-minded regulation is important. But what do bankers tell us? There is duplication of regulation, there are unnecessary audits, and it costs money. It costs taxpayers money.

What do we do with this proposed plan? We add regulators; we add regulation. Certainly everyone has a different opinion about bank powers. Should they do things tomorrow that they cannot do today? Should they take on new risks? That is certainly a reasonable area for debate.

But under the current plan as proposed, banks will not be able to do tomorrow what they can do today. We are taking away their areas of economic activity. All of us agree that money is the problem. Everybody needs money. I need money, banks need money. The question is, where do we get the money? Do we allow banks to make a profit? Not if we limit their area of economic activity.

What will we do if banks continue to fail? Under this plan we come back to the taxpayers and say. "Give us more money." Taxpayers are going to love this.

Let me say that the gentleman from California who spoke so eloquently earlier was absolutely right. This legislation takes the bank law of England from 1694 and makes it the Bank of America's law for 1992, except that it strikes the progressive provisions.

I think that if we adopt the plan that has been proposed by the Rules Committee without consideration of the hard work of the Committee on Banking, Finance and Urban Affairs of this House and proceed to exclude carefully the well-thought-out amendments offered by Members on this House floor, we are not simply doing ourselves a disservice, we are not simply doing the banks of this country a disservice, we are going to be robbing the taxpayers of this country without any justification.

Mr. Speaker, it is senseless, it is useless, and I hope that the Members will join together and vote against this rule. Let us come back next week. Let us try to do something that is not only reasonable but that is right.

Mr. FROST. Mr. Speaker, I would inquire as to the amount of time remaining on each side.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DREIER] has 8½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 3½ minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Dodge City, KS, Mr. ROBERTS, who tried diligently to get one of the most important CRA amendments incorporated.

Mr. ROBERTS. Mr. Speaker, how appropriate it is that on Halloween, the day when things that go bump in the night prowl the earth, the House Rules Committee has now reported this rule on H.R. 6. I have respect for the gentleman from Texas [Mr. FROST] and the chairman of the committee, the gentleman from Massachusetts [Mr. MOAKLEY], but with this rule the committee has proven they are not playing fair; they are in fact playing politics.

I offered an amendment to H.R. 6 to exempt the small community banks from reporting the requirements of the Community Reinvestment Act. The purpose of my amendment was simple. It was to reduce the everexpanding regulatory and paperwork burden that is strangling our small banks.

What kind of a report are we talking about? This is just an example. This is only 2 inches thick. Most of them are 5 or 10 inches thick. This is not a form, it is a book report that should not be required of our small community banks.

My attempt was not outside the committee. Mr. KANJORSKI had offered a similar amendment in the Financial Institutions Subcommittee and it passed. We finally have a chance to reduce rather than add to the unnecessary Government red tape. But, the rules committee won't even let it come to a vote.

Now, my attempt was not made outside the committee. The gentleman from Pennsylvania [Mr. KANJORSKI] had offered a similar amendment that the Financial Institutions Subcommittee had passed with no opposition. We finally have a chance to reduce rather than add to the unnecessary Government red tape, but the Rules Committee will not even let it come to a vote.

Mr. Speaker, I realize the need for antidiscrimination protection in our

banking law. I am not asking that we protect any institution engaging in these practices. All banks regardless of size are required to comply with the Equal Credit Opportunity Act which prohibits that kind of discrimination on the basis of race, color, sex, age, religion, marital status, or national origin. If discrimination is the problem let's strengthen enforcement of the Equal Credit Opportunity Act and focus our efforts and scarce Federal resources where the incidence of discrimination is the highest. I submit that this is not on Main Street America in the community banks of this country. But we are pointing the gun at our large money-center banks, the BCCI scandal, and S&L crooks, and we are shooting small banks in the process.

My amendment is less controversial than the one offered by the gentleman from Pennsylvania [Mr. KANJORSKI]. His amendment, however, was dropped. It was dropped in full committee in exchange for dropping an amendment offered by the gentleman from Massachusetts [Mr. KENNEDY] to broaden CRA authority and requirements.

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

The SPEAKER pro tempore. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 1 additional minute to my friend, the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for the time. I will try to yield to my friend and to the gentlewoman from Ohio [Ms. OAKAR] as soon as I finish my statement.

Months later we finally get this to the floor, and Halloween is here. It is Halloween, and the Democrat treat is that the Kennedy amendment expanding this authority is back and made in order. The trick, the razor blade in the apple for the small community banks, is that that relief for small banks has disappeared.

Let me repeat again that this is not a report for a bank that is discriminating. This is a report only if you expand the bank and you are going to buy another one. I have over 200 banks in my district.

Mr. KENNEDY. Mr. Speaker, will the gentleman yield?

Mr. ROBERTS. I will yield just as soon as I finish my statement. I had a conversation with the gentleman earlier.

Mr. Speaker, the gentleman's amendment was made in order; my amendment was not. The difference is that probably my amendment would have passed and his amendment will not have passed. This is unnecessary paperwork. It was a reasonable step forward.

Mr. Speaker, the only reason it was denied again was on a partisan vote in the Rules Committee, and I do not think that is fair.

Mr. KENNEDY. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from Kansas [Mr. ROBERTS] has expired.

□ 1150

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, as we proceed in this debate today, I hope that Members will listen to the advice and the comments of one of the most efficient and best bank managers in America. His name is Crosby Kemper. Mr. Kemper runs one of the five banks in the country today that has been given a grade of A by Bank Watch, which is a very reputable banking service that looks at banks all over this country. Let me just share with you what Mr. Kemper says about the issues before us.

He was asked in an article which appeared in the Bankers Magazine, the September-October edition of this year, what do you think is the real problem? Let me share with you what he said.

Mr. Kemper said:

> I think the issue is credit. But the tragedy is that the CEO's, especially those running our major banks, know nothing about it.

He went on to say that they broke all the rules that a trained banker should have adhered to.

Then Mr. Kemper was asked what sort of approach would you advise bankers to take? This is a conservative Republican banker that runs a $4 billion institution in the Midwest, one of the five best banks in the country today.

Do you know what he said? He said:

> Every banker should know how to lend money properly. The problem is that not many bankers know how.

Then Mr. Kemper was asked what do you think the need for restructuring the banking industry is, and specifically the Bush reform plan?

This is what he had to say. He said:

> It is hard to imagine the bank managers of some of these money center banks having the ability to underwrite stocks. They have shown no real judgment so far. For these banks to have expanded powers is outlandish. Such a move would make the junk bond problem look like tiddly-winks.

Now, this is not some liberal Democrat social observer. This is a conservative Republican banker in the Midwest who runs a $4 billion institution, saying that if we pass this legislation, we make a terrible mistake for the taxpayers of this country, for the consumers, and indeed for the banking industry.

Mr. Speaker, I hope we listen today.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am always saddened to have to disagree with my friend from Kansas City, Mr. Kemper, but I believe he is clearly very wrong on this issue.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in opposition to the rule. I am a member of one of the committees that has partial jurisdiction over this legislation, the Committee on Energy and Commerce. I am also a member of the subcommittees that have jurisdiction, the Subcommittee on Telecommunications and Finance, and the Subcommittee on Commerce, Consumer Protection, and Competitiveness. I have attended numerous subcommittee hearings and markups as well as full committee hearings and markups on this issue. I have had dozens of meetings in my congressional district with small, medium sized, and large bankers. I have had several full-blown advisory meetings on this legislation.

As a consequence of those meetings and all that study and work, I have developed three amendments, grassroots amendments, commonsense amendments, amendments that would have passed by voice vote and probably unanimous consent had I been allowed to offer them.

I took them to the Committee on Rules to have them made in order for the simple reason that they were not within jurisdiction of the Committee on Energy and Commerce. Not one of those amendments was made in order.

One of those amendments would have allowed a study to coordinate the audit activities of the various regulatory bodies over our banks. Some of my small banks in Texas have been audited six times in the last year. That is six times in 1 year, not one time in 6 years. We ought to be able to bring some coordination to that.

Another amendment would have allowed the local tax appraisal on a property to be used for a 2-year period in order to move the property off the RTC rolls and back into the private sector. At the end of that 2-year period, we would determine whether to allow that procedure to continue in effect for more time.

That one amendment would have probably resulted in somewhere between $80 million and $100 million worth of property being transferred back in private hands in Texas this year alone. It was not made in order.

Finally, I had an amendment that would have required a study to use private market-based insurance for our deposits above $100,000. As we all know, the FDIC guarantees up to $100,000, but above that, there is no guarantee. However, because of the too big to fail process, the taxpayer has in fact guaranteed all deposits, whether they are $100,000 or more.

This amendment would have allowed the small banks to retain some of the

funds that were going to the large banks because they would have all been playing on a level playing field.

Mr. Speaker, not one of those amendments was made in order. For that reason, I would hope that we would defeat this rule, go back to the Committee on Rules, and get a rule that allows a lot of amendments.

This is the most extensive change in banking laws since the Great Depression. We do not need to pass it through the House in 1 day.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DREIER] has 3½ minutes remaining, and the gentleman from Texas [Mr. FROST] has 1½ minutes remaining.

Mr. FROST. Mr. Speaker, I yield 30 seconds to the gentlewoman from Ohio [Ms. OAKAR] for purposes of debate only.

Ms. OAKAR. Mr. Speaker, I wanted to clarify what I thought was a misrepresentation about community reinvestment in the Kanjorski amendment. The Kanjorski amendment was not dropped, it was soundly defeated by the full Committee on Banking, Finance and Urban Affairs.

In terms of community reinvestment, I think we ought to note what it is. Community reinvestment simply says that where banks are located, where they make all their money, they have an obligation in part to lend to people who live in that community. If banks were more conscious of where they came from, we would not have the crisis that we have today in America.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR], a former member of the Committee on Banking, Finance and Urban Affairs.

Ms. KAPTUR. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, I rise in strong opposition to this rule. I believe this rule gives the big banks of this country the right to put both their hands into the taxpayers' pockets of our country. The savings and loans already have one hand in the other pocket, and now it will be two.

How does it do that? By giving the FDIC new authority for a line of credit to the U.S. Treasury for the commercial banks.

What is a line of credit? It is a blank check. I am truly dismayed that this bill, or any bill that has come through the Committee on Banking, Finance and Urban Affairs in the past 9 years, has never come up with a different solution to finance this problem other than going back to the taxpayers of the United States. It is wrong.

Mr. Speaker, if you are for the American people, who did not cause this problem in the first place, you will vote against the rule and for a pay-as-you-go provision in this bill that is fair to the taxpayers of our country.

Mr. Speaker, I include the following article from last Sunday's Washington Post for the RECORD.

BUTTRESSING THE BIG BANKS—EXPERTS SAY TAB COULD HIT $200 BILLION, AND TAXPAYERS MAY HAVE TO HELP

(By Jerry Knight)

America's largest banks are in bigger trouble than government officials and the banks themselves have publicly admitted, and many congressional and private banking experts question whether the industry will be able to solve its problems without direct help from taxpayers.

Congress this week will vote on the Bush administration's request to arrange a huge loan to the Federal Deposit Insurance Corp. to pay for bank failures.

The banking industry is supposed to pay back the money—with interest—so that ordinary taxpayers never feel the bite. But congressional Democrats and many banking economists fear that U.S. banking is simply too weak to repay the money.

The unprecedented loan from the U.S. Treasury is only one part of what Cleveland State University economist Edwin Hill believes will be a $200 billion investment needed to restore the health of the banking industry.

The banking industry's trouble is concentrated in 158 large banks, each with assets of more than $1 billion, according to Hill and economist Roger Vaughan, who are researching the industry for a book on the future of American finance to be published by The Washington Post. "We're dealing with a group of crippled giants," said Hill. Those big banks alone will need to raise at least $64 billion in new capital to operate safely, Hill and Vaughan calculate. The rest of the country's banks will need another $56 billion, the economists concluded after a massive computer analysis of the balance sheets for every one of the country's more than 12,000 banks.

In addition, they say, the banks will also be called on to put up more than $50 billion to repay depositors in failed banks, and an additional $30 billion to rebuild the federal government's bank insurance fund. The economists estimates exceed the FDIC projection that bank failures will cost at least $30 billion and as much as $44 billion. The FDIC is seeking congressional authority to borrow as much as $70 billion to cover operating expenses.

The banking industry is in trouble because of a series of ill-fated decisions over the last decade to lend money to Third World countries, corporate takeover artists and real estate developers who ended up not being able to repay their loans. Those bad loans have caused nearly 1,000 banks to fail, left hundreds more on the brink of failure and badly eroded the capital reserves of another 2,000 banks.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I am very much concerned about this legislation. I think the rule should be more adaptive to amendments. The things that concern me are, No. 1, the taxpayers are going to be standing behind the guarantee of entirely too much money in these accounts. We ought to tighten up much more than this legislation allows.

Second, I do not think interstate banking all over the United States is in the public interest, for very good reasons: Because people in a community can tell the bank that it is unwise to do certain sorts of things and they cannot really do that when it is on an interstate basis.

The next thing is bankholding companies and private concerns in banks are mixed up in a situation in this legislation which I think is dangerous to the health of the bank.

Finally, I could add the fact that I think we should have had a better answer to international banking than we do under this rule.

The things I have referred to, the guarantee of the Federal Government out of the little taxpayers of our country for these money lenders seems to me to be a mistake. And interstate banking seems to me to be a mistake, as well as having the bankholding and other companies involved in things that are in a conflict of interest situation.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. ERDREICH], the chairman of the Subcommittee on Policy Research and Insurance of the Committee on Banking, Finance and Urban Affairs.

Mr. ERDREICH. Mr. Speaker, in taking up the issue of comprehensive banking reform the House is reviewing the work of many committees. As a member of the Banking Committee I know firsthand that this work has been long and arduous, with each committee addressing its concerns about the system of financial services that will be available to Americans for years to come.

I have participated in this debate, have offered amendments in the Banking Committee markup and have analyzed the results of this process. I would prefer the bill that the Banking Committee has reported to the House. The Banking Committee's version of the bill would provide for a more thorough restructuring of financial services. A restructuring critical to the ability of all our financial institutions—whether they are banks, insurance companies, real estate firms, or securities firms—to meet the needs of all citizens to keep us competitive in a rapidly changing marketplace.

This general debate and the debate that will follow on the amendments to H.R. 6 are important to continuing the process of forging appropriate language to meet the competitive needs, capital needs, and service needs of the country. I am hopeful that this body can agree to meet these needs in a substantive and meaningful way. In my view, this means providing a system whereby all financial service institutions will be equal, without protecting one industry at the expense of another.

I intend to support positions that will provide this parity—whether they be equal capital provisions or provisions providing for equal consumer provisions to all financial service organizations. Appropriate, effective safeguards protecting unwary consumers from financial fraud must be a part of this process, but firewalls that are unrealistic or unworkable should not be imposed.

Finally, Mr. Speaker, I urge all my colleagues to consider the full impact of the

amendments that this body will adopt, and, before either voting for or against this bill, consider whether or not there has been true reform of financial services or the dismantling of one industry at the gain of others.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have been asked to close this debate. I will do so by simply saying that we really have a couple of choices here. Are we going to shift back to the banking law as the Bank of England established it in 1694, or are we going to do nothing? The committees with jurisdiction over this, the Committee on Banking, Finance and Urban Affairs, and the Committee on Energy and Commerce, have never had a chance to consider this bill. This rule is clearly unfair, not only to Members on this side, but to Members on the other side of the aisle as well.

Mr. Speaker, I urge a no vote on this rule.

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

□ 1200

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

This piece of legislation is truly one of the most complicated, controversial pieces of legislation this Congress has had to deal with in years. The Committee on Rules had devoted a great deal of time and energy in trying to structure a fair rule, one that permits the major issues to be joined on their merits.

I urge adoption of this rule.

Mr. DELAY. Mr. Speaker, I rise in opposition to this rule.

The reason we are here today is because Congress voted, more than 40 years ago, to guarantee deposits of up to $2,500 of small savers in banks and thrifts to prevent runs on the financial institutions. There was merit in the policy to insure the savings of depositors.

Most depositors kept only small amounts of money in the bank to handle regular transactions. Further, technology severely limited their choice of banks to a small geographic area. Because the accounts were so small they had little incentive to monitor the state of the financial industry and compare their bank's relative status and health. These depositors would only react if they heard rumors that the bank was in trouble, which would lead to a run on the bank.

However, over time, subsequent legislation drastically expanded that coverage. Current deposit insurance coverage of $100,000 per account is more than four times higher than the initial level, and that's after adjusting for inflation.

Additionally, improvements in transportation and telecommunications technology have increased consumers' banking options by orders of magnitude. Many investors now move their capital nationwide and even globally.

Federally guaranteed deposit insurance has evolved from a policy of insuring the savings of depositors to guaranteeing the capital of rate-sensitive investors.

Banks, and other financial institutions, have been in serious trouble in recent years. The Congress is now being asked to make good on its promise to guarantee deposits. As we know, for the Congress to meet its obligation, we must reach deep into the pockets of taxpayers or, to be more precise, future taxpayers.

The bill before us today does not correct this problem of taxpayer exposure. In fact, this legislation actually expands deposit insurance coverage which will increase future taxpayer exposure.

Currently, a family of four can have federally insured accounts totaling $1,400,000 at each financial institution. This bill allows for passthrough insurance coverage. Thus, each person would be able to receive even more coverage in $100,000 increments.

Thomas Garrott, president of the National Bank of Commerce, has correctly identified that federally guaranteed deposit insurance destroyed the natural immunities of the free-market system. In the winter 1991 edition of Regulation, he further points out that:

> The causes most often cited [for the collapse of the S&L industry] are fraud, disintermediation, speculative lending practices, and inept regulatory supervision. In reality, however, these were merely viruses that found a receptive breeding ground in an industry already susceptible to infection as a result of unrestrained deposit insurance abuse.

I oppose this rule on H.R. 6 because it does not allow for amendments to address this serious problem. At the very least, this Congress should be allowed to have a clear vote on the issue of deposit insurance so that the American people will know which Members want to increase taxpayer exposure to future liabilities.

I offered two amendments on deposit insurance which the Rules Committee did not make in order under this rule.

Under my first amendment, deposit insurance coverage would be restricted to $100,000 per individual in aggregate on a nationwide basis. Each person would be able to determine which accounts they want insured up to a limit of $100,000 total. More than 94 percent of all depositors would not be affected by my amendment because they have total deposits of less than $100,000.

The second amendment I offered would have lowered the limit to $40,000 in aggregate. More than 80 percent of current depositors have less than $40,000 in total deposits and thus would not be affected.

Taxpayer guaranteed deposit insurance removes the natural market incentives for banks to make careful decisions. Rate-sensitive investors move their capital through brokers to financial institutions offering the highest rates. The safety and soundness of the institution are not part of the consideration. These investors seek a return on their investments equivalent to the returns achieved in the stock markets without any of the associated risk.

I firmly believe that if individuals want to invest their capital risk-free, they can purchase Government securities. However, if they seek a higher return on their investment, they must accept the risk. Interest rates are a normal function of risk in a market economy.

Mr. Speaker, I ask my colleagues to oppose this rule on H.R. 6 so that the House may have the opportunity to vote on serious reform to deposit insurance.

Mr. FROST. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the resolution.

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

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

Pending that, Mr. Speaker, I ask unanimous consent that the vote by the yeas and nays on the motion to suspend the rules and pass the bill, H.R. 2454, be reduced to 5 minutes to follow this vote.

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

There was no objection.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 210, nays 208, not voting 15, as follows:

[Roll No. 358]

YEAS—210

Abercrombie	Downey	Kopetski
Ackerman	Durbin	Kostmayer
Anderson	Dwyer	LaFalce
Andrews (ME)	Dymally	Lantos
Andrews (NJ)	Early	LaRocco
Andrews (TX)	Edwards (CA)	Laughlin
Annunzio	Edwards (TX)	Leach
Aspin	Engel	Lehman (FL)
Atkins	Espy	Levin (MI)
AuCoin	Evans	Levine (CA)
Bacchus	Fascell	Lewis (GA)
Barnard	Fazio	Long
Beilenson	Feighan	Lowey (NY)
Berman	Flake	Luken
Bevill	Foglietta	Manton
Bilbray	Ford (TN)	Markey
Bonior	Frank (MA)	Martinez
Borski	Frost	Matsui
Boucher	Gejdenson	Mavroules
Brewster	Gephardt	Mazzoli
Brooks	Geren	McCloskey
Bruce	Gibbons	McDermott
Bryant	Glickman	McHugh
Bustamante	Gonzalez	McNulty
Byron	Gordon	Meyers
Cardin	Guarini	Mfume
Carr	Hall (OH)	Michel
Chapman	Hamilton	Miller (CA)
Clay	Harris	Mineta
Clement	Hatcher	Mink
Clinger	Hayes (IL)	Moakley
Collins (IL)	Hayes (LA)	Montgomery
Collins (MI)	Hertel	Moran
Conyers	Hoagland	Mrazek
Cooper	Hochbrueckner	Murtha
Cox (IL)	Horn	Nagle
Coyne	Houghton	Natcher
Darden	Hoyer	Neal (MA)
de la Garza	Huckaby	Nowak
DeFazio	Jefferson	Oakar
DeLauro	Johnson (CT)	Oberstar
Dellums	Johnson (SD)	Obey
Derrick	Johnston	Olver
Dicks	Jones (NC)	Ortiz
Dingell	Jontz	Orton
Dixon	Kanjorski	Owens (UT)
Donnelly	Kennedy	Pallone
Dooley	Kennelly	Panetta
Dorgan (ND)	Kildee	Parker

Pastor
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rostenkowski
Roybal
Russo
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tauzin
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates

NAYS—208

Alexander
Allard
Anthony
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bliley
Boehlert
Boehner
Broomfield
Browder
Burton
Callahan
Camp
Campbell (CO)
Carper
Chandler
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Emerson
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Horton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Jones (GA)
Kaptur
Kasich
Kleczka
Klug
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison
Murphy
Myers
Neal (NC)
Nichols
Nussle
Olin
Owens (NY)
Oxley
Packard
Patterson
Paxon
Payne (VA)
Petri
Pickett
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Sanders
Sangmeister
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Tallon
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wilson
Wolf
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Bilirakis
Boxer
Brown
Bunning
Campbell (CA)
Ford (MI)
Hopkins
Lloyd
Payne (NJ)
Rose
Rowland
Sabo
Savage
Slaughter (VA)
Tanner

□ 1221

Messrs. JACOBS, HEFNER, and CONDIT changed their vote from "yea" to "nay."

Messrs. LAROCCO, PASTOR, DICKS, VOLKMER, and HOUGHTON changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REINSTATEMENT OF GENERAL DEBATE TIME TO COMMITTEE ON AGRICULTURE ON H.R. 6, FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

Mr. FROST. Mr. Speaker, I ask unanimous consent that at the conclusion of consideration of amendments to H.R. 6 in the Committee of the Whole today the period of general debate allocated to the Committee on Agriculture by H.R. 264 and not consumed on yesterday be allocated to that committee.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. FROST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks during debate on House Resolution 266, the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERIC DRUG ENFORCEMENT ACT OF 1991

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 2454, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 2454, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 20, as follows:

[Roll No. 359]

YEAS—413

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brooks
Broomfield
Browder
Bruce
Bryant
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall

Ramstad	Sharp	Thomas (WY)
Rangel	Shaw	Thornton
Ravenel	Shays	Torres
Ray	Shuster	Torricelli
Reed	Sikorski	Towns
Regula	Sisisky	Traficant
Rhodes	Skaggs	Traxler
Richardson	Skeen	Unsoeld
Ridge	Skelton	Upton
Riggs	Slattery	Valentine
Rinaldo	Slaughter (NY)	Vander Jagt
Ritter	Smith (FL)	Vento
Roberts	Smith (IA)	Visclosky
Roe	Smith (NJ)	Volkmer
Roemer	Smith (OR)	Vucanovich
Rogers	Smith (TX)	Walker
Rohrabacher	Snowe	Walsh
Ros-Lehtinen	Solomon	Washington
Rostenkowski	Spence	Waters
Roth	Spratt	Waxman
Roukema	Staggers	Weber
Roybal	Stallings	Weiss
Russo	Stark	Weldon
Sabo	Stearns	Wheat
Sanders	Stenholm	Williams
Sangmeister	Stokes	Wilson
Santorum	Studds	Wise
Sarpalius	Stump	Wolf
Sawyer	Sundquist	Wolpe
Saxton	Swett	Wyden
Schaefer	Swift	Wylie
Scheuer	Synar	Yates
Schiff	Tallon	Yatron
Schroeder	Tauzin	Young (AK)
Schulze	Taylor (MS)	Young (FL)
Schumer	Taylor (NC)	Zeliff
Sensenbrenner	Thomas (CA)	Zimmer
Serrano	Thomas (GA)	

NAYS—0

NOT VOTING—20

Bilirakis	Ford (MI)	Rowland
Boxer	Gekas	Savage
Brewster	Hopkins	Slaughter (VA)
Brown	Lloyd	Solarz
Bunning	Payne (NJ)	Tanner
Campbell (CA)	Pursell	Whitten
Carper	Rose	

□ 1234

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 320, OMNIBUS EXPORT AMENDMENTS ACT OF 1991

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 267) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 267

Resolved, That the bill of the Senate (S. 320) entitled the "Omnibus Export Amendments Act of 1991", in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the resolution now under consideration.

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

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, House Resolution 267 returns to the Senate the bill, S. 320, because it contravenes the constitutional requirement that revenue measures originate in the House of Representatives.

In addition to reauthorizing the Export Administration Act of 1979, S. 320 contains a number of provisions which impose, or authorize the imposition of, a ban on imports into the United States. Among the provisions containing import sanctions are those relating to certain practices by Iraq, the proliferation and use of chemical and biological weapons, and the transfer of missile technology. These changes in our tariff laws constitute a revenue measure in the constitutional sense, because they would have a direct effect on customs revenues.

While the House, by adopting this resolution, will preserve its prerogative to originate revenue matters, I want to make it clear to all Members that our action does not constitute a rejection of the Senate bill on its merits. The House has passed its own bill, H.R. 3489, reauthorizing the Export Administration Act. In addition, H.R. 1415, a bill containing broad nontrade sanctions authority for the proliferation of chemical and biological weapons was signed into law on October 28. Finally, another bill, H.R. 3409, which does contain import sanctions, is pending before the Committee on Ways and Means. We are awaiting certain assurances from the Senate before taking action on that bill.

Thus, Mr. Speaker, our action today is intended solely to protect the constitutional prerogative of the House. It makes it clear to the Senate that the appropriate procedure for dealing with tariff matters that affect revenues is for the House to act first on a revenue bill and the Senate to add its amendments and seek a conference.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to consider was laid on the table.

FINANCIAL INSTITUTIONS SAFETY AND CONSUMER CHOICE ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 264 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6.

□ 1239

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, with Mr. CARR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, October 30, 1991, all time for general debate had expired.

Pursuant to the order of the House of today, general debate designated for the Committee on Agriculture will begin after consideration of any amendments offered today.

Pursuant to House Resolution 266, the gentleman from Michigan [Mr. DINGELL] will be recognized for 30 minutes and the gentleman from New York [Mr. LENT] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts [Mr. MARKEY] may control the time on my behalf.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] is recognized for 30 minutes.

□ 1240

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL], the chairman of the full Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, we stand here in the House of Representatives in the same place we did in 1982, when the Garn-St Germain bill was before us. The same people downtown who presented us the Garn-St Germain bill have presented us the basic legislation which lies before us.

The House has before it proposals which attack the deficiencies of the bill sent up to us and which attack the visible deficiencies of Garn-St Germain. The same people who were pushing that legislation in the earlier days are pushing similar legislation today. I refer to the big bankers, the big bankers who have so mismanaged their affairs through bad loans and are now in serious difficulty. They seek to use that as the excuse to tell the Congress how it is we should restructure the American banking system.

They seek to use that as the mechanism to justify their restructuring the

banking system. I would remind my colleagues about the panic of 1837 and the 1929 crash. In each instance, a massive calamity came about because of abuses similar to ones that the banks would be permitted to perpetrate under the administration's legislation.

There are safeguards in the Gonzalez-Dingell legislation, there are firewalls in that legislation. They are strong, and they will prevent abuses.

We have to do the bank insurance fund refinancing that is necessary, but we also have to see to it that there is no longer the massive exposure that the people downtown, the banking regulators, and the same people who gave us the collapse of the savings and loan system, would perpetrate upon the House and the Nation today.

The gentleman from Texas [Mr. GONZALEZ] and I have arrived at an understanding, settling the disputes between our two committees. That is a part of the basic structure of the legislation. I urge my colleagues to support the bill.

Mr. Chairman, I urge my colleagues to vote against the motion to strike those firewalls, those safeguards, and those protections against abuses by the banks.

The banks, remember, in 1929, brought about the most serious economic collapse in the recent history of the United States. They did it because they abused the banking system and their securities powers.

Mr. Chairman, money can be made in banking. It can be made by following simple, sensible rules of accountability. To evade those rules is to invite disaster.

In New York and elsewhere massive abuses occurred in bad loans to dictators and Third World countries, and in bad loans for mergers and acquisitions, where neither the principal nor the interest could be repaid.

The members of the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs have worked hard.

The distinguished gentleman from Massachusetts [Mr. MARKEY] and the distinguished gentlewoman from Illinois [Mrs. COLLINS] have performed prodigiously with their subcommittees.

The bank insurance fund is now near zero. Approximately, 1,000 banks failed between 1934 and 1981. But under the kind of deregulation and unsound banking practices which occurred under the previous administration and this one, over 1,000 banks have failed in a period of 10 years. They failed because of the attitudes of the regulators, who have said that, if this legislation does not pass in its present form, they will proceed administratively and in the courts to emancipate the banks to do the same thing that the savings and loans did in the time following enactment of Garn-St Germain.

Mr. Chairman, I urge my colleagues to preserve functional regulation. I urge them to see to it that we have real separation between risky activities and insured deposits.

You know, today is Halloween, "trick or treat." You are going to see a lot of promises of treats; you are going to get a lot of tricks from the bankers.

They, the big banks, want to be emancipated. The small banks have different feelings.

If you want to look after small banks, if you want to look after depositors and taxpayers and investors, vote with us.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill has raised many important questions about the issue of banking and commerce. This debate will continue later today as we move forward with a bipartisan amendment sponsored by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New Jersey [Mr. RINALDO] to which would permit commercial companies to save the taxpayers money by acquiring failed and failing banks.

I want to use my time today to address this important amendment, which emanated from the minority on the Committee on Energy and Commerce. This is a good amendment, one which my minority colleagues on the Committee on Energy and Commerce feel very deeply about.

Briefly, this amendment would authorize commercial firms to acquire failing banks. Any acquisition under this provision must represent the least costly alternative to the taxpayer as determined by the FDIC. The amendment requires any bank acquired by a commercial firm to be brought up to and maintained at level 1 capital or else be divested by the commercial firm.

I submit to you that to merely recapitalize the bank insurance fund, without exploring additional sources of capital that might prevent future bank failures, is an irresponsible act. We can debate whether the banking system as a whole needs capital, but there can be very little argument that a bank that is failing or has failed needs capital. The question that we need to ask ourselves then, as architects of public policy, is, Where is this money going to come from?

I think the answer is very clear. The money is not going to come from the financial services industry; 200 bank failures a year prove that. Foreign investors have it, but I think turning the American banking system into branches of foreign banks is bad public policy. Failed or failing banks are hardly in a position to raise capital in our stock and bond markets. That leaves just two alternatives: Allowing commercial companies to invest in failing banks, or forcing the American taxpayer to reach deep into his pocket to bail the banks out.

One question which opponents will raise today is: "Why would a commercial company want to acquire a failed or failing bank?"

The commercial firms that may buy banks are firms that have a history of financial services—consumer finance in particular. In this group are:

Sears, for example, which has provided credit to its millions of customers for many years;

Ford Motor Corp., which has a long history of providing auto loans;

American Express, which is primarily known for its credit card; and

Household International, whose household finance has provided credit to consumer since the 1800's.

I could add other firms that own and operate so-called nonbank banks, too—Like J.C. Penny; Aetna Life & Casualty; General Electric Chrysler; John Hancock, and Montgomery Ward.

A question that is often asked is: "Why would a bank owned by a commercial company make loans to competitors of that commercial company?"

First, let's remember that under the terms of this amendment, the bank will be prohibited from lending to its affiliated companies—that means its commerical parent and any of the commercial company's subsidiaries. If the bank can not legally lend to its affiliates, what choice do they have, if they want to run a profitable banking business, but to lend to unrelated companies, including their competitors?

We know that banks today compete with each other; they lend to each other as well. Banks compete with securities firms, but they are substantial leaders to the securities industry.

Most importantly, alternative sources of credit are just too numerous, with 12,000 banks, 6,000 insurance companies, 9,000 securities firms, 3,000 mutual funds in this Nation today.

□ 1250

So, if a competitor could not get a loan from one bank, it could easily go to another credit provider.

So, Mr. Chairman, the main point I want to make in summing up is that American banking is in trouble. President Bush provided the leadership by sending Congress a far-sighted and far-reaching overhaul of an ailing industry. It is up to us to display the courage to enact his plan and to take America into the 21st century.

I say to my colleagues, "If you want to continue to stick it to the taxpayer, or want to increase the influence of foreign banks on the availability of credit to American consumers and business, then you ought to vote against the amendment to be offered by the gentleman from Massachusetts and the gentleman from New Jersey. Some may call doing that bank reform. I would call it poor public policy."

So, Mr. Chairman, if we want to maintain America's competitive edge

in the world, we can only achieve this by embarking on this bold new program. The risks have been held to the barest minimum, but the rewards are limitless.

Mr. NEAL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. LENT. Mr. Chairman, I yield to the gentleman, but just for a very brief comment.

Mr. NEAL of North Carolina. Mr. Chairman, I appreciate the gentleman from New York yielding to me.

Mr. Chairman, the distinguished chairman of the Committee on Energy and Commerce pointed out that the bank had made some bad loans to dictators, and I would like to know how in this title IV that what they have in mind there is going to stop any loans to dictators. Could someone please help me with that?

Mr. LENT. Reclaiming my time, Mr. Chairman, there will be an opportunity at the appropriate time to debate the motion to strike title IV. I may very well join the distinguished gentleman on the other side of the aisle when that time comes.

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

Mr. MARKEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman from Massachusetts [Mr. MARKEY] for yielding, and, before I talk about what we did in subcommittee, I want to commend both the full committee chairman, the gentleman from Texas [Mr. GONZALEZ], and the gentleman from Michigan [Mr. DINGELL], for their leadership in bringing about the compromise that we are debating at this time. I believe that their hard work and their understanding of the issue that is before us today has resulted in legislation that all of us can be proud of as Americans and, certainly, as leaders of the people who have sent us to these Halls of Congress to represent them and their interests.

As my colleagues know, this compromise avoids the kind of deregulation ideas that the decade-old Garn-St Germain bill contains, which has led us into the S&L fiasco we find ourselves in today. That action has cost taxpayers hundreds of billions of dollars already, and I am sure none of us want to see that kind of bailout become necessary in the banking industry. Instead, this compromise conditions expanded powers on careful regulation and strong consumer protection that require disclosure when products are not federally insured.

Now I think that is important because many consumers seem to believe that all products are to be federally insured. That is absolutely not the case, and we must have disclosures to make sure that we understand that important fact.

Title IV reaffirms that we do not want our constituents, or any other American who is going to a bank for a loan to have to be faced with tie-ins. Tie-ins are when a person seeks a loan and the bank says, "Well, in order for you to get this loan, you'll have to get your insurance through us." That is the restriction that we have in our piece of legislation.

Now I do not want my colleagues to make the mistake of thinking that by merely expanding banking powers we are going to improve the banks' financial health. We have found that is simply not the case; and when it comes down to insurance, we know that is not the case.

All of us are aware that we have experienced a number of insurance failures in the past 2 or 3 years. A big one was Executive Life, that had some 300,000 policyholders who have been affected. Of those policyholders who had annuities, they are only being paid 70 percent on their money. And then there was the insolvency of the Mutual Benefit Insurance Co. that added new troubles. I believe that these are the kinds of risks from insurance that will be heaped upon banks. Banks already have their troubles, and I do not see any need to exacerbate them by allowing them to underwrite insurance.

On the other hand, Mr. Chairman, our compromise protects depositors, policyholders and, ultimately the taxpayers from paying out billions of dollars for deregulated mistakes that we have seen in the past. Further, we are not interested in protecting the insurance and securities industries from any kind of competition, as some have claimed.

The Consumer Federation of America supports our position. There is plenty of competition in the industry. In fact, insurance failures were the direct result of all the competition that we have seen there.

The single limitation we have placed on banking insurance activities prohibits out-of-State banks from coming into my colleagues' States to sell insurance without their State's approval. The Federal Reserve Board opposed the Delaware law that would permit such sales because they said it would threaten the financial soundness of banks, and surely none of us want to do that.

The Energy and Commerce Committee's Subcommittee on Commerce, Consumer Protection, and Competitiveness, which I chair, has jurisdiction over insurance. The legislation was referred to the subcommittee to review the insurance provisions of the bill. Despite a short timeframe, the subcommittee reviewed these issues carefully. While we made certain changes to the bill with respect to the insurance powers of banks, we retained most of the work done in the Banking Committee.

The traditional business of banking—serving as a depository and loan institution—has for the most part been separate from the business of insurance. However, some banks are eager to be permitted to engage in the business of insurance, including underwriting, as an additional source of revenue. Our committee's action and the compromise reflect a cautious approach.

Our experience in examining the insurance industry tells us that expanding bank powers to include insurance underwriting may just add new risks to a bank's bottom line, thus adversely affecting safety and soundness. Expansion of bank powers does not address the problems which have caused the banking crisis, particularly when one considers the potentially risky nature of insurance underwriting.

In Illinois, we have had 27 bank failures since 1980. These failures include Cosmopolitan National Bank of Chicago, which failed this year with assets of $121.4 million. The total assets of the 27 banks had $695 million in assets. In addition, others did not fail, but were pumped up with FDIC funds. That included Continental Illinois Bank in 1984, that had $30 billion in assets at the time. I doubt that allowing them to sell insurance would have made a difference.

We were also concerned about the impact of expanded banking powers on the insurance industry and its millions of policyholders nationwide. The Subcommittee on Commerce, Consumer Protection, and Competitiveness and the Oversight and Investigations Subcommittee have conducted many hearings on the current solvency problems in the insurance industry. Insolvencies that were once unheard of in the insurance industry are on the rise.

Indeed, I'm sure most of us have heard from constituents who have been affected by the recent insurance company failures, particularly those affected by the failure of Executive Life, where annuitants are currently receiving reduced benefits. At the same time, the committee's extensive hearings have revealed serious inadequacies in the current system of insurance solvency regulation.

Even if expansion of banking powers into insurance underwriting were desirable, now hardly seems the right time to do so. This is one of the reasons the Commerce Committee—and the compromise—rejected the commercial ownership of banks and the diversified holding company concept.

While allowing banks to sell insurance generally raises less risks than underwriting, the committee wanted to make sure that consumer protection issues were addressed. For example, we protected consumer confidentiality. We also prevented undue pressure in the sale of financial services. We did this by prohibiting banks from soliciting the sale of insurance products required as part of a loan prior to a written loan commitment. The compromise between

the two committees generally maintains these important protections, with modifications to conform to the agreement to delete the diversified holding company.

In addition, recent court and regulatory decisions have often expanded the ability of banks to sell insurance without a clear concern for congressional intent. The committee felt it was important to speak clearly on this matter so that public policy is rightfully made here in the Congress, rather than through the regulators or the courts. Let me note here that if we strike title IV, then Congress will effectively abdicate its responsibility in this area to appointed regulators and judges.

More specifically, the Commerce Committee bill, and the compromise, support the rights of States to make their own decisions with regard to insurance sales by State banks within their borders. The committee bill and the compromise provides States the opportunity to speak clearly about whether out-of-State banks can sell insurance within their borders. The bill and the compromise establish the appropriate parameters of insurance sales by national banks in small towns.

Let me speak briefly on the issue of commercial ownership of banks, a major difference between the two reported bills. By maintaining the long tradition of the separation of banking and commerce, the Commerce Committee also maintained the separation of banking and insurance underwriting, for the policy reasons I discussed earlier. The compromise maintains this important separation.

But, more broadly, let me emphasize my grave concerns with the very concept of a commercial holding company owning a bank. History teaches us that the potential for abuse and large scale scandal is just too great. As we've seen just recently with the BCCI and Salomon Brothers scandals, the regulators have a hard time even dealing with current complicated corporate structures. It will be that much more difficult with a so-called diversified holding company.

Let me emphasize that the Commerce Committee's bill, and the substitute, reflects a compromise on the insurance powers of banks. It allows certain powers beyond those permitted by the Commerce Committee when it last considered this bill in 1988. However, it clearly prohibits the unlimited expansion of insurance powers proposed by the administration.

Now I know there are some who are unhappy with the overall compromise. They are now urging that we completely strip the bill of title IV, which addresses these issues. I find this position highly ironic.

Many of us would have preferred a narrow bill to begin with. However, when the decision was made to proceed with a broad bill, both the Commerce Committee and the Banking Committee spent much time examining this issue in good faith.

Some who are unhappy with the results of our deliberations would now strike the product of our hard work. I think now is the time to decide the issue of bank powers.

The issue of bank powers came up in 1988. It came back again this year. In fact, it will keep coming back until it has been adequately dealt with. Now is the time to resolve the issue of bank powers, especially since the two committees with jurisdictional interest have come to a fair and reasonable agreement.

In addition, we should all be very careful before we support another financial deregulation package. The compromise is not such a package. Rather, it is a balanced approach designed to ensure the safety and soundness of banks. But if we fail to support the compromise, those who want unchecked financial deregulation will either succeed in achieving their goals through pliant regulators, or they'll be back next year or the year after. We should have learned some painful lessons from the savings and loan debacle.

Let me close by addressing an issue which, while not under the Commerce Subcommittee's jurisdiction, is of great concern to me and to my district. Last week, the Federal Reserve Board released a study of bank mortgage lending practices which showed that mortgage lenders reject black applicants far more often than whites. In Chicago, 23.6 percent of mortgage applications from blacks were denied, compared to only 7.3 percent from whites and an overall denial rate of 9.9 percent. And this difference cannot be explained by income level, as white borrowers in the lowest income category had their mortgage applications approved more often than black applicants in the highest income category.

Congressman JOE KENNEDY will offer an amendment to strengthen the enforcement of antidiscrimination-in-lending laws. I will strongly support that important amendment, and I urge my colleagues to do the same.

In summary, I think that the banks want nothing less than total deregulation, which I do not think they are entitled to. They want to use the same arguments that were used by the S&L's some 10 years ago, and look where they got us. The S&L's were wrong and so are the banks.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from North Carolina [Mr. MCMILLAN], the ranking member of the Subcommittee on Commerce, Consumer Protection, and Competitiveness.

Mr. MCMILLAN of North Carolina. Mr. Chairman, when the administration came to Congress with their original proposal, they sought to reform America's financial system by addressing the inadequacies of our banks, and in a speech I made last night in general debate I pointed out that North Carolina is a perfect example of what we are talking about. We have had intrabranch banking, we have had insurance powers, we have had the maximum allowable securities powers under the law for all of the post-World War II period and produced one of the strongest banking systems in the United States, enabling it to move into troubled banks in other States and pull them out. Unfortunately, the Dingell-Gonzalez agreement on title 4 misses too many opportunities to enhance the strength and competitiveness of our banking system at potentially great cost to both consumers and taxpayers. Desirable goals of limited bank sales of insurance where States allow it only, new sources of capital for banks, more competition and assessable capital formation for business through security underwriting and sales and parity between State and national banks are all issues which have a direct benefit for consumers and taxpayers. These are the means by which competition among strong institutions is created, and competition means lower prices and greater choice for the consumers who use those services, as well as discipline for the system.

What we have in section IV actually reduces the insurance powers of State and national banks in comparison with current law. Currently, national banks may sell insurance statewide from a bank domiciled in a town of 5,000 or fewer residents. The Dingell-Gonzalez agreement limits sales to individuals who reside or are employed in the town itself or own property located in the town.

Currently, national banks may underwrite and sell title insurance. The Dingell-Gonzalez agreement eliminates that option, preserving it for lawyers.

Currently, a State-chartered bank can sell insurance within that State and to other States that authorize the sale of insurance. The Dingell-Gonzalez agreement would prohibit State banks from selling insurance in other States unless expressly authorized to do so by legislative action.

The issue here is not risk. None of the alternatives that we have before us would allow banks to get into the underwriting of insurance.

The version of the Committee on Banking, Finance and Urban Affairs of both insurance and securities provisions would have been far superior to what we have before us today. Current law is better than the Dingell-Gonzalez agreement.

Unfortunately, these important issues cannot be addressed in detail given the amendments ruled in order today. One of the few ways, the only way perhaps, we have before us to improve our banking system in this re-

spect is to vote yes on the Barnard-Hoagland motion to strike title 4, and to revisit it at a later date and do a credible job on it.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker and colleagues, first let me praise the gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Michigan [Mr. DINGELL] and the gentleman from Texas [Mr. GONZALEZ] for their excellent work on this legislation. I think all the Members know that the financial issues that this bill presents are complicated, they are technical, they are arcane, they are hard for Members to absorb.

□ 1300

Mr. Chairman, I would submit that the one issue that our constituents care about the most is fighting financial fraud. That is what we hear at our town meetings. That is what we hear about when we go home and our constituents ask, "What are you going to do about fighting the kind of ripoffs and the kind of deceptive deals that were engineered in the 1980's with junk bonds and with speculative real estate deals that so often drained our economies and our communities dry?"

I am here to say to my colleagues that title IV, above everything else, is about fighting fraud. If we are serious about fighting the kind of financial fraud that we saw in the 1980's, we have got to support title IV and oppose striking it.

We learned recently that the head of the Resolution Trust Corporation said that 40 percent of the S&L problem was due to fraud and illegality. Our constituents would read about it constantly. They read about how insured deposits were being used for vacation trips, for homes, and for every manner of spending.

Title IV is the first comprehensive effort in any financial bill to deal with financial fraud. For example, for the first time accountants would be required to report fraud to Government regulators.

I think all of our colleagues know that talking about accounting is a little bit like discussing prolonged root canal work. The auditors, the accountants are the very first line of defense in terms of fighting financial fraud. As just one example, the judge in the Keating case said, "Where are the auditors? Why didn't they report this kind of thing?" Under this legislation, if we keep title IV, we will have a chance to make sure that in the future people like Charles Keating's auditors would have to report financial fraud, and then we would have the kind of tools to fight the kind of financial abuse that we saw in the 1980's.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. RINALDO], the ranking member of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. RINALDO. Mr. Chairman, the driving force behind H.R. 6 is the need to recapitalize the bank insurance fund. Over 200 banks a year have been failing. The FDIC says they will need to borrow over $9 billion from the Treasury in 1992 alone to bail them out.

As more banks fail, more and more money will have to be poured into the fund. With each infusion of taxpayer dollars, confidence in the financial services sector is damaged and the banks become weaker.

We must explore every alternative to resolving this situation. Later in the debate, I will offer an amendment that would allow commercial corporations to purchase failed and failing banks. Despite all the technical talk, my amendment has one simple purpose—to save the taxpayers money.

Mr. Chairman, I offered this amendment in the subcommittee, and I offered it in the full Committee. I am proud that the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Georgia [Mr. BARNARD] from the majority side of the Committee on Banking, Finance and Urban Affairs are strongly supporting and pushing this amendment.

Mr. Chairman, we can debate whether the banking system as a whole needs capital, but there can be little argument that a bank that is failing or has failed needs capital. The question that we need to ask ourselves then, as architects of public policy is, "Where is this money going to come from?"

It is not likely to come from the financial sector of our economy. It is the weakness of the banking and thrift industries that have us here in the first place. Institutions trying to meet new and higher capital standards, increased oversight, and more cautious loan underwriting standards are not going to be able to pull themselves and their weak and dying brothers out of trouble. Neither bank earnings nor the very limited support they can find in the debt and equity markets can adequately address the capital needs of failed and failing institutions.

Is the capital going to come from outside our borders? Foreign investors do have the capital. As of 1990, they controlled almost 23 percent of the U.S. banking market. Foreign financial institutions have had a field day buying up American banks, while their potential competitors in American commerce had to sit back and watch helplessly as target after target fell. To refuse to allow American commercial companies to become more actively involved in banking means the role of foreign banks will increase. I think increasing the influence of foreign banks on the availability of credit to American consumers and business is poor public policy. Let's free up American interests to compete with them. Let us stop discriminating against American investors within our own national boundaries.

If capital cannot be raised from within the banking industry or through equity or subordinated debt, and foreign investment is not desirable, there are only two alternatives left. Either the bank is allowed to fail and the taxpayer takes the hit, or Congress must allow commercial investment. With 80 percent of the capital in the United States in commercial enterprises, I will offer this amendment clearly convinced that corporate America is the best place to look for desperately needed new bank capital.

To be allowed to acquire a bank, the amendment requires the commercial firm to take all of the bank's poor and nonperforming loans and properties. The acquiring company cannot cherry pick only the good assets, and that is a more strict requirement than is currently imposed by the FDIC when banks, not commercial companies, acquire failing banks, or by the Resolution Trust Corporation when thrifts are acquired. Under current law and practice, when a failing bank is acquired, the purchaser is often allowed to pick and choose the assets it will take as part of its agreement with the regulator. The undesirable assets are what the Government gets stuck with, so it comes as no great surprise when it cannot sell them. That cannot happen under our amendment.

Furthermore, the failing bank amendment prohibits Federal assistance in the acquisition of the bank. The commercial company will not be helped by some massive infusion of capital in the form of taxpayer dollars. In short, the commercial company is going to take the whole company and position its risk capital in between the bank and the taxpayers. This is exactly what we want. The infusion of commercial capital will reduce the exposure of the bank insurance fund. Instead of a failed entity that must be liquidated, the institution will now be an operating business, paying premiums into the deposit insurance fund, and taxes on its profits into the Treasury.

In addition to contributing to resolving the banking crisis, this amendment also will remove one of the inequities of H.R. 6 as currently written. As the result of changes to the Banking Act contained in the bill, banks will be able to purchase securities firms. But without this amendment to allow commercial firms to acquire failed or failing banks, large securities firms, almost all of which have some commercial enterprises within their corporate structures, will be prohibited from acquiring banks. Those securities firms that want to improve the product mix of financial services that they can offer the

public by acquiring a bank should be able to do so, but the price they must pay for the two way street is they must contribute to the resolution of the banking crisis. By limiting them to acquiring failed or failing banks, the tremendous private financial resources of Wall Street will help restore banks to financial health and in that way we will help bring an end to the credit crunch and make loans readily available to our constituents again.

The amendment offered today is banking reform, not banking deregulation. To meet the concerns expressed by some, this amendment has been written to include the most severe restrictions on bank conflicts of interest. When the commercial company acquires the bank, it is subject to all of the firewalls and other prudential limitations contained in the remainder of the bill. H.R. 6 contains new levels of examination and enforcement authority to both the bank and securities regulators. It also creates private rights of action. And H.R. 6 does not reduce existing antitrust or antifraud protection in any way.

The prohibition on commerce and banking was not part of the legislative revolution of the New Deal. Until passage of the Bank Holding Company Act of 1956, there were no restrictions at all on commercial firms owning any number of banks. In 1956, commercial firms could still own one bank, and it was not until 1970 that one-bank holding companies came under the Bank Holding Company Act which prohibited commerce/banking. Trying to stop the interaction of commerce and banking is like passing legislation against bad weather. Since 1970, every legal contortion from regulatory definitions that somehow conclude that selling computer systems is not commerce, to the creation of something called a nonbank bank, have been used to allow the natural synergy of business and financial service to grow despite its legal restriction. Limited purpose banks are owned today by J.C. Penney, Aetna Life and Casualty, American Express, Chrysler, General Electric, John Hancock, Montgomery Ward, and scores of other nonbank organizations. Mr. Chairman, there is undoubtedly enough interaction of commerce and banking permitted under our existing law to allow us to make use of it to help resolve the banking crisis, and minimize the demand on our constituents by substituting commercial investment in failing banks for the alternative of bailing them out with taxpayer dollars. I urge all of my colleagues to vote for the amendment.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, we are on the eve of a major bill here, and I hope we will not make a major mistake. I hope we will not repeat the S&L crisis all over again.

We have major problems in the banking system as it is presently defined. We have had banks make bad investments time after time after time with their insured deposits. The problem is not that the banks are not getting enough new industries; the problem is that the banks do not know how to handle what they are in right now. The reason is simple. If you are given free money, insured deposits, and you can invest them in just about any risky activity you want, you are going to get into trouble.

That is what happened with the S&L's in 1982. That is what is about to happen in this body again unless we take corrective action. There are two ways to take that action. The first is on the compromise Gonzalez-Dingell amendment. It is not my preferred way, but if we strike it, we will let the deregulators deregulate it as they did with the S&L's and as they did willy-nilly with the banking industry, and we pay the price.

I would argue that the only real reform on the floor today is the core bank proposal. Core bank says once and for all that you cannot use insured deposits in any risky type of activity. Core bank says that insured deposits ought to be used for the purpose that Hoover and Roosevelt originated them, to help the average person be sure their money is safe in an institution, not to tell these large institutions that they can do everything they want with insured deposits.

Core banking does not affect almost all the banks in this country, because they are little banks and good banks and they have stuck to their knitting. They have made mortgages, small business loans, and things banks traditionally do.

□ 1310

But the large money center banks are weak. They are weak not because there are too many restrictions on them, but because the market does not give an adequate test for them. You cannot regulate, you cannot put a regulator looking over the shoulder of a bank for each loan. They will mess up. But if you tell them for risky activities they must get their money where every other American industry gets its money, from the marketplace, and thus they have to have someone look over their shoulders before they give them that money, we can have safety and soundness.

Mr. Chairman, core banking will protect the depositor. Core banking will help the banks. It is the only real reform that learns the lessons from the savings and loan crisis.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. NEAL], the chairman of the Subcommittee on Domestic Monetary Policy of the Committee on Banking, Finance and Urban Affairs.

Mr. NEAL of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the first point is it is absolutely absurd to compare what our bill does with banks to what was done with the savings and loans. What happened with the savings and loans in the early 1980's, when they had problems, was this: Their capital was reduced; supervision and regulation were reduced at the same time they were allowed, with taxpayer-insured funds, into new activities like junk bonds and direct investment in real estate.

Our bill does exactly the opposite for banks. It increases capital requirements. It increases regulation and supervision. It would not allow new activities with insured funds.

So it is simply a terrible misstatement to say that what we are doing is anything like what was done with the savings and loans.

Now, as to this idea that somehow without title IV this is a fat cat bankers bill as someone said earlier. I ask this question: Why is an activity that a bank could do a fat cat activity and not a fat cat activity if it is done by an investment banker? This title IV offered by the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Michigan [Mr. DINGELL] takes banks out of Government securities, something they have done for years, which lowers the price for local governments and so on, but it lets investment bankers do it. It takes banks out of mutual funds and discount brokerage, essentially risk-free endeavors, and lets investment banks do them.

So why are these fat cat activities for banks, but not fat cat activities for investment bankers? That is an absurd idea.

Mr. Chairman, this is all about taking something away from one industry and giving it to another for anticompetitive reasons. It is a narrow special interest approach and should be defeated. Defeat title IV.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. GONZALEZ], the chairman of the full Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, some have suggested that striking title IV would leave everything status quo—no new powers and, thus, no need for new safeguards. Unfortunately, Mr. Chairman, this isn't the situation we face. Some of the biggest of the big bank race horses are out of the barn through loopholes and loose interpretations of the Glass-Steagall prohibitions. The regulators have already taken the barn door off its hinges and we need to construct the public-interest fences or face financial disasters down the road.

Striking title IV—eliminating the protections provided by the Banking

and Energy and Commerce Committees—protects some of the big names of banking. Little wonder that the lobbyists have been crowding the halls, clogging the phone lines, filling the mail bags, and buying huge multipage advertisements.

Let me just mention familiar names of some of the corporations that benefit from a strike of the safeguards—corporations that have slipped around Glass-Steagall through the benevolence of the regulators and formed so-called section 20 securities subsidiaries: Bankers Trust, Chase Manhattan, Barnett Banks, Chemical Bank, Citicorp, First Chicago, J.P. Morgan, First Interstate, C&S Sovran, Banc One, NCNB, Marine-Midland, Manufacturers Hanover, and Fleet/Norstar.

And other similar multi-billion dollar corporations around the Nation who are pleading they just can't afford to abide by public safeguards of title IV. If we strike title IV, these corporations stay out of the mainstream of regulation. That, my colleagues, is what is behind much of the furor over title IV.

Mr. Chairman, the battle over title IV is a real test of where Congress stands vis-a-vis the public interest and the interest of big banking corporations.

Designating the amendment to this title as just "striking title IV" seems too mundane—too low key in light of its impact. In the interest of accuracy and in recognition of its far-reaching nature, I think we should rename the amendment as the "Big Bank Holding Company Protection Act of 1991." That is much more majestic.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. OXLEY], a member of the Committee on Energy and Commerce.

Mr. OXLEY. Mr. Chairman, this bill will be long debated for at least a couple of days. I would like to speak directly about the Rinaldo amendment that has been referred to before, essentially whether commercial entities can purchase failed or failing banks.

Mr. Chairman, all we have to do is look at the recent history of what has happened in the area of banks that are in trouble to instruct us as to what might happen should this occur again. New Hampshire, as many Members know, had some very serious difficulties with their banks. Many of their banks were just recently purchased over the last few weeks by Irish banks, so we have foreign ownership now of many of the largest banks in New England.

In Ohio we have had problems in the past with S&L's. In the case of Ohio we had a major corporation purchase several savings and loans, and essentially kept their doors open, kept them loaning money to people who wanted to buy homes during that very difficult period, because that corporation had deep pockets. It had the kind of capital that could keep these institutions open.

Mr. Chairman, essentially we are looking at who can provide the capital infusion for these institutions. If we are looking at the banks and we limit the universe as to who can purchase failed or failing banks, we are going to be looking a long, long time.

Mr. Chairman, I would suggest that this is an excellent opportunity to take the monkey off the back of the taxpayers and allow those commercial enterprises under the Bank Holding Company Act to purchase those banks. Some people say well, they will not be interested in buying these banks. How do we know, unless we give them the opportunity to do so. That is all we are asking, is in the marketplace when you have a sale of a failing bank, allow that commercial enterprise to at least bid on it, and make them purchase the whole enchilada here, not to just cherry-pick off the best loans.

Mr. Chairman, I think this is good public policy. Let us support the Rinaldo amendment.

Mr. MARKEY. Mr. Chairman, could the Chair update us as to the time remaining on both sides?

The CHAIRMAN pro tempore (Mr. HAYES of Illinois). The gentleman from Massachusetts [Mr. MARKEY] has 13 minutes remaining, and the gentleman from New York [Mr. LENT] has 11½ minutes remaining.

Mr. MARKEY. Mr. Chairman, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the Dingell-Gonzalez approach offers the taxpayers some protection, and I intend to support that. I think that the concept of the gentleman from New York [Mr. SCHUMER] of core banking makes some sense, and I intend to vote for that as well. But I am going to tell you why I am going to vote against the entire legislation, unless somebody can answer me a simple question: As the only independent in this body, I have a simple question for my Democratic and Republican friends. Title I, section 101, puts the taxpayers on the line for $30 billion. Many economists think it will end up being a lot more than that.

Now, I ask a question: When we asked the other day for $1.5 billion for children, people were jumping up and down saying we cannot add to the deficit. Now, my understanding is this bill dumps another $30 billion into the deficit. Will somebody suggest to me if I am wrong on that? Am I wrong? If it dumps another $30 billion into the deficit, will anyone suggest to me I am wrong in suggesting that this bill is going to fall on the working people and poor people of this country who are going to be forced to pay it out?

Mr. Chairman, vote no.

□ 1320

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. HOAGLAND. Mr. Speaker, under the rule that we adopted just a moment ago, we are basically going to have two options with respect to the issues of the proper powers of banks in the area of securities and insurance and also the commercial ownership of banks issue.

I have prepared this makeshift chart here in my office to try and stress the severity of the bank failure problem in America today.

We can see, beginning with about 1985, both the number of failed banks and the number of banks on the problem list have significantly increased. As far as the failed list is concerned, the small banks have a disproportionately large number to the failed banks. There has been some rhetoric about large banks. Small banks, unit banks, fail at a greater percentage rate.

It is for this reason that the FDIC is running out of money, and they are asking for $70 billion to loan to the fund so that this problem can continue to be dealt with.

We have spent a year hearing experts, economists, regulators, Chairman Seidman, others who really understand the industry well. Their basic message was, "We need to strengthen the industry, allow it to become more profitable so that there will not be as many failures and so the taxpayers can be protected."

The truth of the matter is, so many of us are concerned with the agreement between these two chairmen because it tends to weaken banks, not strengthen banks. The experts we talked to start from here, have prescriptions that go from here to here to here. Paul Volcker goes this far, does not agree with commercial ownership. Bob Light from the Brookings Institute, all the way to here with respect to commercial ownership. Everybody is at a different spot somewhere along the scale.

The message is the same. Let us strengthen the industry.

The proposal offered to us by these two gentleman goes the other direction and weakens the industry. It is not a wise prescription.

I would suggest we strike title IV.

Mr. MARKEY. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY}.

Mr. SLATTERY. Mr. Chairman, there seems to be a great deal of confusion as to exactly what this legislation does with respect to the rollback of existing powers that banks have. Let me just observe that with the Dingell-Gonzalez compromise before us, municipal securities can continue to be under-

written and marketed inside the bank. This is different from the language contained in the Committee on Energy and Commerce bill.

There is going to be a lot of bad information spread across the country that we are still voting on the Committee on Energy and Commerce bill. We are not.

Certain private placements can continue to be underwritten and marketed inside the bank with this compromise. All Government securities can continue to be marketed inside the bank under this compromise, and banks can sell securities, including mutual funds, inside the bank.

An exception, the so-called Lincoln lobby debt exception, prohibits only the sale of the bank's, or its parent's own stock and bonds.

I would submit that makes perfect sense. The 39 big banks with so-called section 20 underwriting subsidiaries are now, by Federal Reserve Board orders, required to have those affiliates registered and regulated by the SEC under existing law. The Fed's orders also impose firewalls, similar to those in our bill.

Our bill, however, would not allow the regulators to administratively repeal these protections, although we would allow them to modify the firewalls to respond to current marketing conditions.

Currently, however—and keep this in mind—the Fed is in the process of acting to undo a number of their own firewalls. I would just point out, what we are attempting to do with this legislation is to prevent the Fed and the SEC from rolling back, from lowering their own firewalls.

I would also observe that after January 1, 1993, all banks have to move out of their bank any securities activities except the ones that I have just mentioned. They do not have to move into holding companies as some have suggested. They merely have to establish a subsidiary.

So let us keep the facts straight under this compromise proposal.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, one of the points the gentleman from Kansas raised is what would happen if we struck one of the provisions of title IV known as the Lincoln lobby debt exception. For those who do not remember what the Lincoln Savings and Loan was, let me remind my colleagues that it was the financial institution owned by the gentleman by the name of Charles Keating who, in the process of taking depositors' money in through his Lincoln Savings and Loan lobby, duped thousands of investors into buying his financial institution's own securities under the guise of savings.

Strike title IV and we will encourage financial institutions such as that of Charles Keating to continue to rip off investors.

I think the point the gentleman made in his remarks should not be lost upon us. If we believe that folks like Charles Keating and the Lincoln Savings and Loan should be allowed to perpetuate the kinds of activities that visited difficulties both on people in this institution and on financial institutions all across this Nation, then repeal title IV. If we think that Charles Keating and his cutsy-dutsy little tellers ought to be able to induce widows and children into putting their money into allegedly secured investments, when the reality was that they were not, then go along and repeal title IV.

The fact of the matter is that the gentleman from Kansas is correct. We close the Charles Keating loophole. We end the Lincoln lobby debt and prohibit institutions from posing as legitimate debt, not as an investment, protect the taxpayers, protect the legitimate saver, and keep title IV in the bill. Let us not let Charles Keating get what he tried so hard to get in a different way.

Mr. SLATTERY. Reclaiming my time, I thank the gentleman for his remarks. He is absolutely correct.

Mr. LENT. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the Committee on Energy and Commerce.

Mr. RITTER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, in 1933 the Members of this body launched a great experiment called the New Deal. They had faced the stock market crash of 1929, and the coming of the Great Depression, and they knew that difficult times called for bold solutions.

They fashioned three pieces of legislation: The Banking Act, the Securities Act, and the Home Owners Loan Act that reshaped the landscape of American financial services.

These were not pieces of legislation that enshrined the way business had always been done. Rather, they cut through the traditional approaches to Government's role in regulation. They recognized that a system of regulation must be flexible enough to address the problems of the time in which it is called upon to act.

The Members of this body in 1933, were men and women of great vision. Were they here today, I believe they would call upon us to come up with bold solutions to the problems of our time. And they would laugh, scoff at the idea that we should address the economic and financial problems of our country in the 1990's with legislative solutions designed to meet the challenges of the 1930's or the 1950's or the 1970's.

There can be no serious economic progress, in the crucial financial sector of this economy, until the large pool of failed and failing banks has been eliminated.

The legislation before us today will not do the job. Simply stated, if we do not resolve the failed and failing banks situation, we play havoc with our financial services industry in this country. We keep them from engaging in their proper role of ensuring economic growth in the United States.

I ask my colleagues to look very carefully at the Rinaldo amendment, which does not go near far enough but at least is some positive solution to bringing additional capital, that is not taxpayer-generated capital, to solving this banking crisis.

□ 1330

Mr. MARKEY. Mr. Chairman, I yield myself 1 minute.

I would just like to make one clarification, because there is the ongoing point that is made on behalf of the bankers in the country that they were forced into all these bad loans, they were forced because they were not allowed to get out into the securities business, which is even more dangerous than the banking practices which they had engaged in.

Let me just for the record state that when those big city bankers in 1979, 1980, 1981, and 1982 were loaning all of that money to Third World countries, they were getting their pictures on the front covers of Forbes and Fortune as the financial geniuses of our time. When they were loaning money out for all these LBO's in 1984, 1985, and 1986 they were getting their pictures on the cover of Fortune and Forbes as the geniuses of our time. When they were loaning money to Donald Trump on his word for commercial real estate and for the Trump Casino, they were the geniuses of our time.

Now they tell us they were forced into doing this. We want all of those awards back, because they told us that they were the banking geniuses of our time.

Mr. LENT. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. FISH], a member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I thank my friend for yielding time to me.

Mr. Chairman, for months, bankers, financiers, insurers, consumers, and the Treasury have put forth proposals for the reform of the U.S. financial sector.

H.R. 6 and the package of amendments embody both astute and meddlesome approaches to reform.

The commendable goal of this historic legislation is twofold: The modernization of banking and the protection of deposition and the taxpayer. Unfortunately we may have before us today too broad a vehicle to realize this goal. With the lingering nightmare of what occurred after FIRREA in mind, the legislative process should seek to avoid opening new roads to imprudent financial adventure.

There are sound and obvious reasons for prompt regulatory response to banking ills, recapitalization of the bank insurance fund, and revised deposit insurance reporting, all of which are contained in title I. These provisions strive for greater responsibility for money borrowed from the taxpayer. Likewise, title II's regulation of foreign bank operations and their conduct in the United States is an important and timely step.

Title III is a sober approach to greater bank operating efficiency. Allowing nationwide banking and branching will result in wider choices for the financial consumer. The choice left to the States to opt out not participate in an interstate system would be a positive additional protection of States rights.

Bankers, insurers, the securities industry, and three committees of the Congress have all labored to shape the outcome of issues contained in title IV, sometimes to their own favor, but for the most part after great efforts at compromise. Title IV needed revision but showed promise as it was reported out of the Banking Committee.

Even that version raised concerns over the concentration of too much economic power. Would the consolidation of banking with commerce, securities or insurance hurt the average consumer and greatly increase the likelihood of anticompetitive activities? I too have strong reservations about removing existing barriers between commerce and banking. I am thankful it is no longer in the bill before us.

We have in article IV an opportunity to choose whether commercial banks should have statutory authority to get into investment banking. But, if they are allowed to get into the securities industry, we must make sure there are clear and workable safeguards against anticompetitive arrangements. The shape of title IV's provisions in this area are an awkward attempt. The far preferable language in the Judiciary Committee's amendment should be considered at a later date. It would make it clear that the Federal antitrust laws would apply to commercial banks offering two or more products as a package sale.

Important and better regulation is clearly the course taken in title V for Federal deposit insurance reform. I am pleased that the title retains savings bank life insurance activities in my State of New York which has a long, popular, and sound tradition in this area.

Title VI is also a sound work product and I applaud the requirement of the GAO to report to Congress within a year on the effects of mandatory cashing of Government checks.

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, the amendment to strike title IV is being advertised as the kind of deregulation that will allow banks to grow out of their problems. But this goes much further. What you are really doing is supporting desupervision.

Have we not learned our lessons? Go back a month or two to the Salomon Brothers investigations, and listen a moment to what one of the Nation's preeminent regulators had to say. When asked how long it would take to determine what happened when you get to the bottom of the Salomon Brothers scandal, his answer? "Give us 6, maybe 9 months, and maybe we can tell you." These are the so-called regulators that proponents of this amendment would have us rely on to protect taxpayers from another mega-bailout.

My colleagues, that is what we can expect from current law without the protections of title IV. Somehow we are led to believe that Cole Porter-like "anything goes" deregulation somehow will stem the tide of failures and bad loans that has brought the Members that chart that my colleague from Nebraska showed. But the rising tide of bank failures only underscores one thing, that run-amok deregulation of the savings and loan industry and the banking industry is not the answer to our problem.

Without title IV, this banking bill is going to end up in the same kind of train wreck we have seen in the BCCI scandal, the Salomon Brothers scandal and the savings and loan industry. This is not, indeed, deregulation, but this is, as I mentioned, desupervision. It would give the Charles Keatings of this world through the front door what they could not buy through the back door. It gives to the State of Delaware a very special exemption that allows one State to dictate insurance sales practices and policies to the balance of the 49 other States. They get through the front door what we could not, through regulation, give them in the back door.

Ladies and gentlemen, this bill and striking title IV is a banker's dream. It is a lot like the final scene in the Frank Capra classic "It's a Wonderful Life" where James Stewart was standing in his home on Christmas eve, James Stewart thought he was wiped out, the evil corporate banker having, unfortunately, purloined his big investment, but was rescued by thousands of little investors who came in to save their friend and their neighborhood bank. The free-wheeling go-go bankers of the 1980's have effectively purloined a much bigger sum and no deregulation is going to rescue millions of taxpayers from paying the price for their excesses.

The reality of the matter is that title IV is the one thing that protects the U.S. taxpayers from disasters like those of the savings and loan industry, ensures real regulation, and guarantees that all of us do not have to explain away today's votes like we have been explaining away the votes on savings and loans for the past 10 years. Gonzalez-Dingell is the only thing keeping this bill from becoming another Garn-St Germain.

Save title IV, protect the taxpayers, and for once, let us do the right thing.

Mr. LENT. Mr. Chairman, here to save Jimmy Stewart, I am pleased to yield 2½ minutes to the gentleman from Ohio [Mr. WYLIE], the ranking member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I have stated a little earlier that I was disappointed that the Rules Committee made in order the Dingell-Gonzalez title IV provision in this bill and did not in effect make title IV as it came out of the Banking Committee the original text.

I would point out that none of the members of the Committee on Banking, Finance and Urban Affairs or of the Committee on Energy and Commerce had any input in the legislation except for two, and those were the two chairmen. I have great admiration and respect for both chairmen, but I think that nearly one-fourth of the House considered H.R. 6 in the Banking Committee and in the Committee on Energy and Commerce.

We had a long debate on that provision in our bill, which would impose greater restrictions on allowing banks to become involved in investment banking and in insurance. The gentleman from Ohio indicated that if we go back and strike this title IV, that we are back in the savings and loan situation all over again.

I respectfully disagree. In the case of the savings and loans, they were not required to have 3 percent capital, which these banks are. Also, in the case of the savings and loan industry, through State chartering mechanisms, they were allowed to invest much of their capital in enterprises which banks cannot invest in, like junk bonds, direct investments in real estate, and so forth. So there is no analogy, I submit, to the savings and loan situation and Charles Keating. That is a scare tactic, at best.

I am suggesting that we strike title IV as we now know it and go with the amendment that will be offered by Mr. RINALDO and Mr. FRANK, which will allow commercial enterprises to buy the failing banks. I think by this process that we can save the taxpayers a lot of money.

I might point out that the commercial enterprise has to buy the banks, warts and all. It has to buy good assets as well as bad assets, and that will save the taxpayers a lot of money in the long run.

Again I thank the gentleman for yielding.

Mr. MARKEY. Mr. Chairman, could I once again inquire as to how much time is remaining?

The CHAIRMAN pro tempore. (Mr. HAYES of Illinois). The gentleman from Massachusetts [Mr. MARKEY] has 4 minutes remaining and the gentleman from New York [Mr. LENT] has 4 minutes remaining.

Mr. MARKEY. Mr. Chairman, it is my understanding that will be the prerogative of the majority to complete debate on this issue.

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. MARKEY. I reserve the balance of my time, Mr. Chairman.

Mr. LENT. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia [Mr. BLILEY], a member of the Committee on Energy and Commerce.

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding the time.

First let me say to my colleagues who are not here on the floor, Mr. Chairman, that the process we have today is simply outrageous. We have has several committees, many Members on both sides of the aisle put many hours into working on this legislation. And then we have two Members, two chairmen go off in a room and make a compromise.

□ 1340

There is nothing wrong with that, but then to take that vehicle and make that the underlying text rather than the product that had been the work of the Committee on Banking, Finance and Urban Affairs for a number of years, that is wrong.

Now, I would remind my colleagues also that in the mid-1980's, the then Reagan administration came with a plan to infuse capital into the savings and loan FSLIC, and we had a lot of discussion. They asked for $15 billion, and we had an onrush to Washington of representatives of the S&L industry saying, "Oh, no, we do not need that much. They are going to put too heavy a burden on us," and we only did $5 billion.

Well, deja vu, here we are again, and let us not second-guess. We need to help our banking industry. We need to make it more competitive.

As my good friend, the gentleman from Georgia, said, it is like the Fram ad, "You can pay me now or you can pay me later."

We can either allow the banks to raise their own capital or, in a short, very short, time, we will be voting the taxpayers' money.

Mr. Chairman, we need also to seriously consider and to vote for the Rinaldo-Frank amendment. We need to allow commercial enterprises to put up their capital, not go to the taxpayers to put up their tax dollars to rescue banks if the need comes. That is very important.

Mr. NEAL of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. BLILEY. I am happy to yield to the gentleman from North Carolina.

Mr. NEAL of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

It was said earlier, a few minutes ago, that under this title IV substitute that banks could still offer mutual funds. I believe there is a little kicker in that, though, and that is that, as I understand the provision, and I wonder if the gentleman, the chairman of the subcommittee, would listen and tell me if I am right or not, that they could not offer a mutual fund that had a stock in it that the bank had ever loaned any money to. So let us say it was a mutual fund like the S&P 500, had 500 stocks, and the only way they could offer that mutual fund would be to make sure that in none of those 500 stocks was there any loan, so obviously it would make it totally impossible, so that is giving with one hand and taking it away with the other.

With Government securities and with each transaction, there has to be a certification written in hand that the person knows it is not a bank deposit. So, again, it is giving with one hand and taking away with the other.

You could not possibly do that as a practical matter. So all of this is just sort of a little joke.

Mr. BLILEY. Reclaiming my time, I thank the gentleman.

The gentleman has hit on a very important part. This bill, as it currently exists, rolls the clock back. It does not help the banks. It hurts the banks, and all you are doing is putting in more capital, and, believe me, ladies and gentlemen, colleagues, we will be back, and the bill will be considerably higher.

Mr. MARKEY. Mr. Chairman, I yield myself 4 minutes, the remainder of my time.

Mr. Chairman, let us lay out what this debate is all about. For the last several months, it was characterized as a jurisdictional debate between the Committee on Banking, Finance and Urban Affairs and the Committee on Energy and Commerce. That fight no longer exists.

The chairman of the Committee on Banking, Finance and Urban Affairs and the chairman of the Committee on Energy and Commerce have resolved their difference. There is no dispute between the two committees on jurisdiction.

The fight is now over substance, a historic debate now, between the forces of deregulation and the forces of prudential regulation that allows for the banking industry to engage in activities which are legitimate and an important part of the economic fabric of our country, but while protecting the depositors, the investors, and the taxpayers of our country.

In 1982 Garn-St Germain passed this body, a historic mistake. It allowed for the deregulation of the S&L industry with no supervision, with no firewalls, with no protection for taxpayers, and in the 1990's, we are going to pay $500 billion of taxpayers' money to bail that problem out.

Do you wonder why we are not going to have any education programs in the 1990's, Head Start, health care, transportation? It is because $500 billion that should have gone to the young people in our country, to the elderly, to the working people in our country is going to go to bail out the S&L industry, and now we are asked to deregulate the banking industry, not that it has not already been deregulated.

Because instead of coming to us and asking us for a Garn-St Germain for the banking industry as they did for the S&L's, they went to the Federal Reserve, they went to the Federal court, they went to the States, and they took down Glass-Steagall so that the banks could get out into these activities but without an accompanying set of safeguards, of protections, of firewalls to protect the depositors, to protect the taxpayers.

Today now we are asked here on the floor to vote a $70 billion line of credit from the Federal Government, from the taxpayers, to the commercial bankers.

We fund all of breast cancer with $77 million. One in nine women in this country is going to be hit with the tragedy of breast cancer; 1 in 4, the projections are, by the year 2000; $77 million for the women of this country. For the bankers $70 billion; $500 billion for the S&L industry.

This is a historic moment. We do not want to tie the hands of the banks. We want them to go out there and to be competitive, but we want to ensure that we do not repeat the 1980's.

The discretionary spending that was supposed to be there for the working-class people in our country is gone. It is going to the bankers. It is going to the S&L's.

Let us make sure, for God sakes, in the 1990's, that we do not allow them to go out and gamble away our future of the next decade as they did our last. That is what this historic debate is all about. That is what this divide is all about.

It is not jurisdiction any longer. It is substance. It is historic.

I urge all of my colleagues, as they view this Dingell-Gonzalez safeguards protection, to understand that this will be the historic moment. This will be the Garn-St Germain vote of the 1990's. This is what will be looked back to as we decide year after year how many more billions we will have to give the commercial banks.

Mr. LAFALCE. Mr. Chairman, our financial services are in serious trouble. Banks are failing at record rates, putting the bank insurance fund under serious pressure and necessitating a substantial recapitalization. Technology has changed the shape of financial products and services, leaving banks behind in a world

where domestic and foreign bank and nonbank competitors offer a fuller and more desired array of financial products to individual and corporate consumers. As a result, the banking industry holds an ever smaller portion of this country's financial assets. Yet the industry is underwritten by a deposit insurance guarantee that ultimately can make taxpayers culpable for industry failures. The result is an industry under siege and the American taxpayer at risk.

Moreover, we too often forget the linkage between the lending the community relies upon for its growth and the health of the industry which provides it. The primary role of banks is to keep the flow of credit going to our local communities—for housing, for innovation, for corporate expansion, for consumer lending, for a full array of parties and products and projects that keep the economy moving. If banks are not profitable, if they are not sound, if they are under stress, they cannot lend—they must simply strike a defensive position and do their utmost to safeguard their resources.

That posture is bad for the industry, for the community, and for the country. Lending necessarily suffers and credit for businesses and consumers dries up. We have already seen a significant tightening of credit. If we do not respond intelligently to problems in our financial services sector, the situation could well worsen. The current severe credit crunch will not abate unless the banking industry is given new competitive opportunities.

Ultimately, renewed economic growth in this country will depend substantially on the strength and quality of our financial services sector. Reform of that sector is critical if that growth is to be achieved. Congress must choose a solution to the problems of the commercial banking sector that will put the banking industry—and the economy—back on its feet.

The bill passed by the House Banking Committee would do that. While the Gonzalez-Dingell compromise also takes some important steps toward serious structural reform—most notably the repeal of Glass-Steagall—that compromise has some serious flaws that must be corrected.

The U.S. banking industry badly needs new capital. That capital can only come from a limited number of sources, and if insufficient capital is forthcoming, the taxpayer will have to make up the difference. The Banking Committee vehicle would permit commercial firm investment; the compromise would not. By totally precluding commercial firms from investing in the banking industry we are eliminating the largest potential source of capital in this country. Surely it is preferable to have domestic commercial firms invest in the U.S. banking industry with appropriate controls than to rely on foreign investment or taxpayer money.

Changes in the financial services business have crippled the competitiveness of American banks. A task force which I chaired on the international competitiveness of U.S. financial institutions found that U.S. banks are no longer global players and are increasingly being outpaced by foreign competition at home as well as abroad. There are no longer American banks among the top 20 global players. Yet the compromise would prohibit U.S. banks from adapting to new competitive challenges.

Although the Banking Committee bill would repeal the outmoded and anticompetitive Glass-Steagall Act, the compromise would impose unnecessary and burdensome controls on bank securities affiliates. Some of these controls address legitimate safety and soundness concerns. But others are no more than cross-marketing restrictions that arbitrarily disadvantage banks and their affiliates.

Neither the industry nor the American taxpayer can afford a reform that will in fact place new restrictions on the banking industry while giving it insufficient opportunities to improve competitiveness and profitability. Nor can we afford to put off a serious effort at structural reform. Whatever its flaws, the Dingell-Gonzalez compromise, like the Banking Committee bill, has taken a historic step—the repeal of the outdated Glass-Steagall Act. This reflects a general appreciation of the fact that the banking industry as we have traditionally known it is a dinosaur and must change to survive. This is an extremely significant change and we should not lose the opportunity it affords to press for progressive reform.

There are those who are pressing for Congress to drop entirely any effort to move comprehensive reform in the short term and focus narrowly on a recapitalization of the bank insurance fund. Recapitalizing the fund without otherwise making provision for the development of a safer and more profitable industry will only be throwing good money after bad.

We cannot fix the banking industry's problems by simply throwing money at them. If we try to do so, I believe the American taxpayer may ultimately be at risk for yet another bailout.

Mr. HOLLOWAY. Mr. Chairman, I rise today to say that banking reform legislation is very needed. However, I have mixed feelings about the different parts of this complex bill. I am convinced that whatever the outcome of this bill we must ensure that American banks bear the cost of their own recapitalization. This bill would do just that. We simply cannot risk another savings and loan crash.

Further, I feel very strongly about the failed-or-failing amendment which would allow commercial firms to acquire a bank that has failed or is in danger of failing.

It just makes sense to let a solid, commercial parent absorb the troubled bank. In doing so, the commercial firm must purchase all the assets of the failed banks. The firm must also acquire the bank with no assistance from the FDIC which lowers the cost to the taxpayer. Finally, the bank may not extend any credit or purchase any assets from a commercial affiliate.

Mr. Chairman, we have an obligation to protect the American taxpayer. This is a perfect opportunity to do just that by allowing the financial risk to be assumed by someone other than the taxpayer.

Finally, I am in favor of the option amendment which would permit interstate branching only in States that specifically allow it.

Mr. BOUCHER. Mr. Chairman, as reported by the Committee on Energy and Commerce, H.R. 6 added a new section 4(n)(4)(A)(viii) to the Bank Holding Company Act that generally prohibited a bank from extending credit to the issuer of any security being underwritten by its securities affiliate until 90 days after the end of the underwriting period. Section 4(n)(4)(G), however, created certain exceptions to this prohibition. In order to qualify for one of these exceptions, any credit extended would have to comply with regulations to be prescribed by the Federal Reserve Board that would be designed to "prevent any insured depository institution from engaging in any coercive or unfair practice to induce any person to use the underwriting, distributing, or placing services of a securities affiliate." If an insured depository institution were a significant participant in a credit facility, and a securites affiliate were a significant participant in the underwriting, the securities affiliate and the issuer would have to certify to the SEC that "the issuer had not been subjected, as an inducement to such issuer's election to use the underwriting or placement services of such securities affiliate, to any coercive or unfair practice or conditioning of such facility in violation of the regulations—to be prescribed by the Board." Section 4(n)(4)(A)(viii), and the exceptions in section 4(n)(4)(G), have now been adopted as part of title IV of H.R. 6.

The Energy and Commerce Committee's report on H.R. 6 states that:

> The purpose of section 4(n)(4)(A)(viii) is to remove a conflict of interest that could lead an insured depository institution either to assume large credit risks or to impose a tying arrangement on borrowers for the benefit of its securities affiliate. This conflict arises from the availability of insured deposits to support the underwriting activities of the securities affiliate. A depository institution could condition the availability of credit on the borrower's use of the securities affiliate.

This description of the purpose of section 4(n)(4)(A)(viii) is consistent with my understanding of the provision. In my view, the exceptions to the general prohibition should be designed to ensure that any excepted transactions are not inconsistent with this basic purpose. Simply put, the terms of the exceptions should ensure that banks are not using excepted transactions to impose tying arrangements on borrowers for the benefit of securities affiliates, or as the Energy and Commerce Committee report suggests in another place, otherwise to "coerce potential borrowers into using the underwriting services of a securities affiliate."

Certain language in the Energy and Commerce Committee report arguably departs from this view and conditions the availability of the exception on satisfaction of a standard that is considerably more stringent than a traditional tying standard, or any standard suggested by the commonly understood meaning of coercion. In particular, the Energy and Commerce Committee report suggests that impermissible coercion could result from "any communication that might reasonably be construed as an indication to a borrower—or, by the same token, to an issuer of securities underwritten by a securities affiliate—that the decision by the insured depository institution to provide or continue to provide a credit facility will be influenced by the borrower's—or issuer's—willingness to use the services of the securities affiliate * * *."

A traditional tying standard, as reflected in section 106 of the Bank Holding Company Act Amendments of 1970, makes the existence of a condition or requirement that a borrower obtain some additional service from a bank or affiliate a predicate for any violation. The language in the Energy and Commerce Committee report on coercion suggests a standard much broader, and more stringent, than a condition or requirement standard. Moreover, Webster's defines "coercion" as "restrain[ing] or dominat[ing] by force;" "compell[ing] to an act or choice;" or "enforc[ing] or bring[ing] about by force or threat." Those definitions suggest a standard that is a far cry from any "communication that might reasonably be construed as an indication * * * that the [bank's] decision * * * will be influenced by the borrower's (or issuer's) willingness to use the services of the securities affiliate * * *."

A standard for coercion as broad and as vague as the one suggested in the Energy and Commerce Committee report could have two unfortunate effects. It could chill communications between banks and their customers, and it could narrow the exception to the point of irrelevance. I believe that either of these effects would be undesirable from the perspective of both banking organizations and borrower/issuers. In my view, Federal Reserve Board should focus on the basic antitying purpose of section 4(n)(4)(A)(viii) in adopting regulations to implement the exceptions. At a minimum, the Federal Reserve Board should not adopt the Energy and Commerce Committee report's overbroad and vague standard for coercion and, instead, should focus on the commonly understood meaning of the term. Especially under circumstances in which we will be asking issuers—and securities affiliates—to certify that the Board's regulations have not been violated, I think it is crucial that the standards be clear and easy to apply.

Mr. HOUGHTON. Mr. Chairman, there are a variety of issues being woven in and out of this debate: Recapitalization, better supervision, and more disciplined deposit insurance. Now we all have different views on them.

But there is one absolute common goal shared by all: To strengthen the banking system. This to me means not to intellectualize as to what might be.

Here is what we face. One of every eight banks is losing money. Profits are down. We know what's happening with the bank insurance fund.

So in brief we have to decide what is reality, not what we might like it to be. Two things are needed: An infusion of new capital, and how do we do that? We allow the weak to join the strong.

The second is we allow financial systems to meet head-on banks from other countries—not located in London or Tokyo but in New York and Los Angeles. We want our banks to win against theirs. It's as simple as that.

The Dingell-Gonzalez language stops that process in its tracks. The system is dealt a punishing blow.

So why do this—when our objective is to help, not hurt. This is the real world. Defeat the Gonzalez-Dingell language.

□ 1350

The CHAIRMAN pro tempore (Mr. HAYES of Illinois). Pursuant to House Resolution 266, the amendment in the nature of a substitute consisting of the text entitled "Committee Print, October 30, 1991," is considered as an original bill for the purpose of amendment and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 6

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Institutions Safety and Consumer Choice Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—SAFETY AND SOUNDNESS

Sec. 100. Short title.

Subtitle A—Deposit Insurance Funds

Sec. 101. Funding for the Federal Deposit Insurance Funds.
Sec. 102. Limitation on outstanding borrowing.
Sec. 103. Repayment schedule.
Sec. 104. Borrowing for BIF from BIF members.

Subtitle B—Supervisory Reforms

Sec. 111. Improved examinations.
Sec. 112. Independent annual audits of insured depository institutions.
Sec. 113. Assessments required to cover costs of examinations.
Sec. 114. Application to FDIC required for insurance.
Sec. 115. Regulatory requirements study.

Subtitle C—Accounting Reforms

Sec. 121. Accounting objectives, standards, and requirements.
Sec. 122. Small business loan data required in reports of condition.

Subtitle D—Prompt Regulatory Action

Sec. 131. Prompt regulatory action.
Sec. 132. Appointment of conservator or receiver for insured State depository institutions.

Subtitle E—Least-Cost Resolution

Sec. 141. Least-cost resolution.
Sec. 142. Limitation on use of liquidity lending for deposit insurance fund purposes.
Sec. 143. No assistance to troubled institution without removing management and repudiating shareholders claims.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

Sec. 151. Short title.
Sec. 152. Federal deposit insurance required for State chartered banks, savings associations, and credit unions.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Sec. 201. Short title.
Sec. 202. Regulation of foreign bank operations.
Sec. 203. Conduct and coordination of examinations.
Sec. 204. Supervision of the representative offices of foreign banks.
Sec. 205. Reporting of stock loans.
Sec. 206. Cooperation with foreign supervisors.
Sec. 207. Approval required for acquisition by foreign banks of shares of United States banks.
Sec. 208. Penalties.
Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
Sec. 210. Clarification of managerial standards in Bank Holding Company Act of 1956.

Subtitle B—Customer and Consumer Provisions

Sec. 221. Paperwork reduction and improvements in administration of Community Reinvestment Act of 1977.
Sec. 222. Additional factor in assessing majority-owned institution's record of meeting community credit needs.
Sec. 223. Enforcement of Equal Credit Opportunity Act.
Sec. 224. Fair housing reporting.
Sec. 225. Regulatory burden study.
Sec. 226. Notice of safeguard exception.
Sec. 227. Prohibition on deceptive practices relating to electronic fund transfers from accounts.
Sec. 228. Deposits at nonproprietary automated teller machines.
Sec. 229. Notice of branch closure.

Subtitle C—Bank Enterprise Act

Sec. 231. Short title.
Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
Sec. 234. Financial services for distressed communities.
Sec. 235. Community development organizations.

TITLE III—NATIONWIDE BANKING AND BRANCHING

Sec. 301. Nationwide banking.
Sec. 302. Interstate branching by national banks.
Sec. 303. Interstate consolidation or merger of national banks or State banks with national banks.
Sec. 304. Interstate branching by State banks.
Sec. 305. Interstate branching and banking by foreign banks.
Sec. 306. Interstate acquisitions by savings and loan holding companies.
Sec. 307. State-by-State CRA evaluations of depository institutions with interstate branches.
Sec. 308. Prohibition against deposit production offices.
Sec. 309. Restatement of existing law.
Sec. 310. Visitorial powers.

TITLE IV—FINANCIAL SERVICES MODERNIZATION

Subtitle A—Amendments to Federal Banking Laws

CHAPTER 1—FINANCIAL SERVICES HOLDING COMPANIES

Sec. 401. Financial services holding companies.
Sec. 402. Acquisition of banks.
Sec. 403. Interests in nonbanking organizations.
Sec. 404. Registration and enforcement.
Sec. 405. Reservation of rights to states; preemption of anti-affiliation provisions.
Sec. 406. Penalties.
Sec. 407. Conforming amendments to section 11.
Sec. 408. Application of the limitations on tying arrangements and insider lending to financial services holding companies.

Sec. 409. Provisions exempting financial services holding companies from the Savings and Loan Holding Company Act.
Sec. 410. Cease and desist authority.
Sec. 411. Effective date.
CHAPTER 2—DEPOSITORY INSTITUTION CONVERSIONS
Sec. 421. Failing thrift conversions to SAIF-insured national bank.
Sec. 422. Qtl-qualified national banks resulting from conversion of savings associations.
Sec. 423. Mergers and acquisitions of insured depository institutions during conversion moratorium.
Sec. 424. Mergers, consolidations, and other acquisitions authorized.
Sec. 425. Acquisition of thrift institutions by certain companies which control banks and are not treated as holding companies.
CHAPTER 3—FINANCIAL ACTIVITIES OF NATIONAL BANKS
Sec. 431. Securities activities of national banks.
Sec. 432. Insurance activities of national banks.
Sec. 433. Amendments to sections 23a and 23b of the Federal Reserve Act.
Sec. 434. Customer disclosure.
Sec. 435. Bankers' banks.
CHAPTER 4—NONBANKING ACTIVITIES OF FOREIGN BANKS IN THE UNITED STATES
Sec. 441. Amendments to the International Banking Act of 1978.
Subtitle B—Amendments to Federal Securities Laws
CHAPTER 1—REGULATION OF SECURITIES ACTIVITIES OF DEPOSITORY INSTITUTIONS
PART I—BROKER-DEALER PROVISIONS
Sec. 451. Definition of broker.
Sec. 452. Definition of dealer.
Sec. 453. Power to exempt from the definitions of broker and dealer.
Sec. 454. Requirement that banks falling within the definitions of broker or dealer place their securities activities in a separate corporate entity.
Sec. 455. Provisions relating to broker-dealers affiliated with depository institutions.
Sec. 456. Broker/dealer disclosure with respect to fiduciary purchases in underwritten securities.
PART II—BANK-INVESTMENT COMPANY ACTIVITIES
Sec. 461. Custody of investment company assets by affiliated banks.
Sec. 462. Affiliated persons and transactions.
Sec. 463. Prohibition of controlling interest in investment company.
Sec. 464. Borrowing from an affiliated bank.
Sec. 465. Independent directors.
Sec. 466. Prohibition against use of a bank's name by an affiliated mutual fund.
Sec. 467. Definition of broker.
Sec. 468. Definition of dealer.
Sec. 469. Treatment of bank common trust funds.
Sec. 470. Purchase of investment company securities as fiduciary.
Sec. 471. Common trust fund conversions.
Sec. 472. Extension of credit for purchase of investment company securities.
Sec. 473. Access to nonpublic information.
Sec. 474. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.
Sec. 475. Bank and insurance pooled investment vehicles.
Sec. 476. Definition of broker.
Sec. 477. Definition of dealer.
PART III—EFFECTIVE DATE
Sec. 480. Effective date.
CHAPTER 2—ADMINISTRATION OF SECURITIES LAWS WITH RESPECT TO SECURITIES OF DEPOSITORY INSTITUTIONS
PART I—AMENDMENTS TO THE SECURITIES ACT OF 1933
Sec. 481. Exemption to permit transition to holding company structures.
PART II—REPORT AND AUDIT REQUIREMENTS
Sec. 487. Reports and audit requirements.
Subtitle C—General Provisions
Sec. 491. Report on resources for implementation.
Sec. 492. Study of effectiveness of customer and investor protection firewalls.
Sec. 493. Securities registration and reporting study.
TITLE V—FEDERAL DEPOSIT INSURANCE REFORM
Subtitle A—Activities
Sec. 501. Limitations on brokered deposits and deposit solicitations.
Sec. 502. Risk-based assessments.
Sec. 503. Restrictions on insured State bank activities.
Sec. 504. Restrictions on real estate lending.
Sec. 505. Capital standards and interest rate risk.
Sec. 506. Transition rule.
Sec. 507. FDIC back-up enforcement authority.
Subtitle B—Coverage
Sec. 511. Deposit and pass-through insurance.
Sec. 512. Foreign deposits.
Sec. 513. Penalty for false assessment reports.
Subtitle C—Demonstration Project and Studies
Sec. 521. Feasibility study on authorizing insured and uninsured deposit accounts.
Sec. 522. Private reinsurance study.
Subtitle D—Credit Unions
Sec. 524. Liquidations of federally insured State credit unions.
TITLE VI—MISCELLANEOUS PROVISIONS
Subtitle A—Payment System Risk Reduction
Sec. 601. Findings and purpose.
Sec. 602. Definitions.
Sec. 603. Bilateral netting.
Sec. 604. Clearing organization netting.
Sec. 605. Preemption.
Sec. 606. Relationship to other payment systems.
Subtitle B—Right to Financial Privacy Act of 1978
Sec. 611. Amendments to the Right to Financial Privacy Act of 1978.
Subtitle C—Final Settlement Payment Procedure
Sec. 621. Final settlement payment procedure.
Subtitle D—Miscellaneous Committees, Studies, and Reports
Sec. 631. Commission on the thrift industry.
Sec. 632. Bank Insurance Fund Advisory Committee.
Sec. 633. Amendments relating to Federal Reserve Board reserve requirements.
Sec. 634. Depository Institutions Reform Advisory Committee.
Sec. 635. Report on Government check cashing.
Sec. 636. Permanent authorization of Credit Standards Board.
Subtitle E—Utilization of Private Sector
Sec. 641. Utilization of private sector.
Sec. 642. Reporting.
Sec. 643. Requirement to minimize payments for legal services.
Subtitle F—Emergency Assistance for Rhode Island
Sec. 651. Emergency loan guarantee.
Subtitle G—Qualified Thrift Lender Test Improvements
Sec. 661. Short title.
Sec. 662. Adjustment of compliance periods for purposes of qualified thrift lender test.
Sec. 663. Increase in amount of liquid assets excludable from portfolio assets.
Sec. 664. Additional investments included in definition of qualified thrift assets.
Sec. 665. Prudent diversification of assets.
Sec. 666. Consumer lending by Federal savings associations.
Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders
Sec. 671. Prohibition on entering into secrecy agreements and protective orders.
Subtitle I—Establishment of Capital Standard Requirement
Sec. 681. Capital standards.
Subtitle J—References in Federal Law
Sec. 691. References in Federal law.
Sec. 692. Severability.

TITLE I—SAFETY AND SOUNDNESS

SEC. 100. SHORT TITLE.

This title may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding at any time may not exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—For purposes of paragraph (5), the term 'obligation' includes—

"(A) any guarantee issued by the Corporation;

"(B) any amount borrowed pursuant to section 14; and

"(C) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.".

(b) GAO REPORTS.—

(1) QUARTERLY REPORTING.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) ANALYSES TO BE INCLUDED.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) IN GENERAL.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

"(1) IN GENERAL.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) CONSULTATION WITH AND REPORT TO CONGRESS.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) EMERGENCY SPECIAL ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively, and by inserting after paragraph (6) the following new paragraph:

"(7) EMERGENCY SPECIAL ASSESSMENTS.—In addition to the assessments imposed on insured depository institutions under other provisions of this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) BORROWING FOR BIF FROM BIF MEMBERS.—

"(1) BORROWING AUTHORITY.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) LIMITATIONS ON BORROWING.—

"(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) LIABILITY OF BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(5) INVESTMENT BY BIF MEMBERS.—

"(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(6) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) ANNUAL EXAMINATIONS.—

(1) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—Each insured depository institution (other than an institution for which a conservator or receiver has been appointed) shall be examined at least once during each 12-month period (beginning on the date on which the most recent examination of such institution ended) by the appropriate Federal banking agency in an on-site examination unless the institution has been examined by the Corporation during such period in an on-site examination.

"(2) ACCEPTANCE OF STATE ON-SITE EXAMINATIONS.—Notwithstanding paragraph (1), the appropriate Federal banking agency or the Corporation may accept an examination report on any insured depository institution which is based on an on-site examination by the appropriate State bank supervisor.".

(2) EFFECTIVE DATE.—Section 10(d) of the Federal Deposit Insurance Act (as added by paragraph (1) of this subsection) shall take effect at the end of the 1-year period beginning on the date of the enactment of this Act.

(3) TRANSITION RULE.—During the period beginning after the end of the period described in paragraph (2) and ending on December 31, 1993, section 10(d) of the Federal Deposit Insurance Act shall be applied by substituting "18-month" for "12-month" with respect to any insured depository institution other than—

(A) an institution which received a composite CAMEL rating of 3, 4, or 5 under the

Uniform Financial Institutions Rating System (or a comparable rating under an equivalent rating system) during the most recent examination of such institution; or

(B) an institution for which a notice or application has been received by the appropriate Federal banking agency under section 7(j) or 18(c) of the Federal Deposit Insurance Act during the 12-month period beginning on the date on which the most recent examination ended.

(b) EXAMINATION IMPROVEMENT PROGRAM.—

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program which meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure frequent, objective, and thorough examinations of such institutions.

(c) DEFINITION RELATING TO STATE BANK SUPERVISORS.—

(1) IN GENERAL.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

"(r) STATE BANK SUPERVISOR.—

"(1) IN GENERAL.—The term 'State bank supervisor' means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

"(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under subsection (d) may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit

committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor which received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.—Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under paragraph (1), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution in proportion to the assets or resources of the institution.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of the examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as

defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—Section 4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

SEC. 115. REGULATORY REQUIREMENTS STUDY.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study to determine—

(1) ways to reduce and streamline regulatory requirements imposed by Federal banking agencies, particularly for small community depository institutions; and

(2) which, if any, regulatory requirements may be waived for such institutions without endangering the safety and soundness of the institutions.

(b) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to the Congress and the other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act) containing the Corporation's findings and conclusions under the study conducted pursuant to subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

(c) IMPLEMENTATION.—The Federal Deposit Insurance Corporation and other appropriate Federal banking agencies (as defined in section 3(q) of the Federal Deposit Insurance Act), acting through the Federal Financial Institutions Examination Council, shall implement any recommendation for administrative action made by the Corporation pursuant to subsection (b).

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt regulatory action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING PRINCIPLES.—Modify or eliminate any accounting principle or reporting requirement of that Federal banking agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of insured depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.".

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS LOAN DATA REQUIRED IN REPORTS OF CONDITION.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) SMALL BUSINESS AND SMALL FARM LOAN DATA.—

"(A) IN GENERAL.—In the report of condition required under paragraph (3) for the 4th quarter of each calendar year, each insured depository institution shall include information indicating the total number and aggregate dollar amount of the institution's outstanding loans in each of the following categories:

"(i) Commercial loans to small businesses.

"(ii) Commercial mortgage loans to small businesses.

"(B) REPORTING CATEGORIES.—The information required by subparagraph (A) shall be listed separately for each of the following small business categories:

"(i) Businesses which were in existence for less than a year at the time the reported loans were made.

"(ii) Businesses with annual sales of $100,000 or less.

"(iii) Businesses with annual sales of more than $100,000 but not more than $250,000.

"(iv) Businesses with annual sales of more than $250,000 but not more than $1,000,000.

"(v) Businesses with annual sales of more than $1,000,000 but not more than $20,000,000.

"(C) MINORITY-OWNED BUSINESS CATEGORY.—The information required by subparagraphs (A) and (B) shall be further itemized for minority-owned small businesses.

"(D) CHARGE-OFFS AND INTEREST AND FEE INCOME.—Any report of condition referred to in subparagraph (A) shall indicate the insured depository institution's net charge-offs and the interest and fee income for commercial loans to small businesses and for commercial mortgage loans to small businesses, listed separately for each of the following small business categories:

"(i) Businesses with annual sales of $250,000 or less.

"(ii) Businesses with annual sales of more than $250,000.

"(E) AGRICULTURAL LOANS TO SMALL FARMS.—Any report of condition referred to in subparagraph (A) shall indicate the total number and aggregate dollar amount of the insured depository institution's outstanding agricultural loans to small farms.

"(F) DEFINITIONS.—For purposes of this paragraph—

"(i) SMALL BUSINESS.—The term 'small business' means an enterprise with annual sales of $20,000,000 or less.

"(ii) SMALL FARM.—The term 'small farm' means a farm business with annual sales of $500,000 or less.

"(iii) COMMERCIAL LOAN.—The term 'commercial loan' means a loan that is reportable as a commercial and industrial loan in the reports of condition submitted pursuant to this subsection.

"(iv) COMMERCIAL MORTGAGE LOAN.—The term 'commercial mortgage loan' means a loan that is reportable as a real estate loan secured by nonfarm nonresidential properties in the reports of condition submitted pursuant to this subsection.

"(v) AGRICULTURAL LOAN.—The term 'agricultural loan' means a loan that is reportable as a loan to finance agricultural production and other loans to farmers in the reports of condition submitted pursuant to this subsection.

"(G) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—The requirements of this paragraph shall not apply to any insured depository institution which has total assets, as of the most recent full fiscal year of such institution, of $100,000,000 or less.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 37 (as added by section 121 of this title) the following new section:

"SEC. 38. PROMPT REGULATORY ACTION.

"(a) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(1) IN GENERAL.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall establish a prompt regulatory action system which meets the requirements of this section, including the establishment of any standards, minimum capital requirements, deadlines for the submission and review of plans, and other classifications required to implement this section.

"(2) DOCUMENTATION OF DETERMINATION.—In complying with this section, the agency and the Corporation shall document in writing the facts and assumptions and any other conclusion underlying any determination to take any specific action and any determination not to take any other action authorized under this section.

"(3) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency and the Corporation (with respect to regulations required to be prescribed under this section by the Corporation other than as an appropriate Federal banking agency) shall, after notice and opportunity for comment, prescribe final regulations under paragraph (1) not later than 180 days after the date of enactment of this Act and such regulations shall take effect not later than 270 days after such date of enactment.

"(b) DEFINITIONS.—For purposes of this section—

"(1) CAPITAL DISTRIBUTION.—The term 'capital distribution' means any of the following:

"(A) A dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest of any insured depository institution, except a dividend consisting only of shares of the institution or any amount paid on the deposits of a mutual savings bank or a mutual savings association that is determined by the appropriate Federal banking agency not to constitute a dividend.

"(B) A payment made by an insured depository institution to repurchase, redeem, retire, or otherwise acquire any of the institution's shares, including any extension of credit made to finance an affiliate's acquisition of such shares.

"(C) A transaction that the appropriate Federal banking agency or the Corporation determines by order or regulation to be in substance the distribution of capital.

"(2) COMPENSATION.—The term 'compensation' means any payment of money or provision of any other thing of current or potential value in connection with employment.

"(3) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' means a ratio of tier 1 capital to total assets of 2 percent.

"(4) EXECUTIVE OFFICER.—The term 'executive officer' shall have the same meaning as provided in section 22(h) of the Federal Reserve Act.

"(5) LEVEL 1 DEPOSITORY INSTITUTION.—The term 'level 1 depository institution' means any insured depository institution which—

"(A) maintains a risk-based capital ratio that is significantly in excess of the required minimum ratio;

"(B) maintains tier 1 capital that is significantly in excess of the required minimum for tier 1 capital; and

"(C) maintains capital that meets or exceeds the required minimum ratio for each other relevant capital measure.

"(6) LEVEL 2 DEPOSITORY INSTITUTION.—The term 'level 2 depository institution' means any insured depository which—

"(A) maintains capital in an amount that meets or exceeds the required minimum ratio for each relevant capital measure; and

"(B) is not a level 1 depository institution.

"(7) LEVEL 3 DEPOSITORY INSTITUTION.—The term 'level 3 depository institution' means any insured depository institution which—

"(A) is not in compliance with all currently applicable capital standards; and

"(B) is not a level 4 or level 5 depository institution.

"(8) LEVEL 4 DEPOSITORY INSTITUTION.—The term 'level 4 depository institution' means any insured depository institution which maintains capital in an amount which—

"(A) is significantly less than the required minimum ratio for any relevant capital measure; and

"(B) exceeds the critical capital level.

"(9) LEVEL 5 DEPOSITORY INSTITUTION.—The term 'level 5 depository institution' means any insured depository institution which maintains capital in an amount which is less than or equal to the critical capital level.

"(10) LEVERAGE LIMIT.—The term 'leverage limit' means the leverage limit established by the appropriate Federal banking agency.

"(11) OTHER DEFINITIONS RELATING TO CAPITAL MEASURES.—The terms 'total assets', 'tier 1 capital', and 'tier 2 capital' have the meaning given to such terms by the appropriate Federal banking agencies.

"(12) REQUIRED MINIMUM RATIO.—The 'required minimum ratio' means the minimum acceptable capital level adopted by the appropriate Federal banking agency by regulation or guideline with respect to each relevant capital measure.

"(13) RISK-BASED CAPITAL RATIO.—The term 'risk-based capital ratio' means the risk-based capital standard established by the appropriate Federal banking agency.

"(14) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of depositors or general creditors.

"(15) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any level 3, level 4, or level 5 depository institution.

"(c) CAPITAL MEASURES AND RECLASSIFICATIONS OF LEVELS.—

"(1) CAPITAL AND LEVERAGE LIMIT REQUIREMENTS.—

"(A) IN GENERAL.—Any capital measure prescribed by any appropriate Federal banking agency for purposes of this section shall include at a minimum—

"(i) a tier 1 capital to assets ratio;

"(ii) a risk-based capital ratio; and

"(iii) a leverage limit.

"(B) INTEREST RATE AND OTHER MARKET RISKS.—In establishing any risk-based capital standard for purposes of this section, the appropriate Federal banking agencies shall take into account interest rate risk and other market risks.

"(2) MINIMUM CAPITAL RATIOS FOR INSTITUTIONS IN EACH LEVEL.—Consistent with the purposes of this section, each appropriate Federal banking agency shall establish, by regulation, the applicable minimum capital ratios for each relevant capital measure for the insured depository institutions in each level of depository institutions defined in subsection (a).

"(3) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation or guideline, establish any additional relevant capital measure consistent with the purposes of this section.

"(4) CONSULTATION.—In prescribing any regulation under paragraph (2), each appropriate Federal banking agency shall consult with the Corporation.

"(5) RECLASSIFICATION OF UNSAFE OR UNSOUND INSTITUTIONS.—If the appropriate Federal banking agency or the Corporation determines that any insured depository institution is in an unsafe and unsound condition or is operating in a manner which poses a risk to any deposit insurance fund, the agency or the Corporation shall reclassify such institution as a depository institution of an appropriate level for purposes of this section.

"(d) STANDARDS FOR SAFETY AND SOUNDNESS.—

"(1) OPERATIONAL AND MANAGERIAL STANDARDS.—The appropriate Federal banking agencies, in consultation with the Credit Standards Advisory Committee, shall establish operational and managerial standards for all insured depository institutions and depository institution holding companies, including standards relating to the following subjects:

"(A) Internal controls, information systems, and internal audit systems in accordance with section 36.

"(B) Loan documentation requirements.

"(C) Underwriting standards.

"(D) Interest rate exposure.

"(E) Asset growth.

"(2) ASSET AND EARNINGS STANDARDS.—The appropriate Federal banking agencies shall establish standards governing the asset quality and earnings of any insured depository institution or depository institution holding company which shall include—

"(A) a maximum classified loans to capital ratio; and

"(B) an earnings standard for such institutions and companies which require such institutions and companies to maintain earnings sufficient to absorb losses of the institution or company without impairing the capital of the institution or holding company.

"(3) REQUIRED ACTION FOR FAILURE TO COMPLY WITH STANDARDS.—

"(A) CORRECTIVE ACTION PLAN.—In addition to any other action which the appropriate Federal banking agency may take, the agency shall require any insured depository institution or depository institution holding company which fails to meet any standard established pursuant to paragraph (1) or (2) to submit a corrective action plan for correcting any deficiency of the institution or company with respect to such standard to the agency not later than 30 days after the institution is notified by the agency of such failure.

"(B) FAILURE TO COMPLY.—If any insured depository institution or depository institution holding company fails to submit a corrective action plan which meets the appropriate Federal banking agency's approval or fails to comply with the corrective action plan, the agency shall issue an order requiring such corrective action and impose such restrictions as the agency determines to be appropriate.

"(C) RESTRICTIONS WHICH MAY BE INCLUDED IN ORDER.—Any order issued under subparagraph (B) to any insured depository institution or depository institution holding company may include the following restrictions:

"(i) RESTRICTING ASSET GROWTH.—Subject to subparagraph (E), prohibiting any increase in total assets of the institution.

"(ii) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(iii) REQUIRING AN INCREASE IN CAPITAL.—Requiring the institution or company to increase the amount of capital of the institution or company.

"(D) ORDER REQUIRED FOR CERTAIN INSTITUTIONS.—The appropriate Federal banking agency shall issue an order under subparagraph (B) imposing at least 1 of the restrictions described in subparagraph (C) on an insured depository institution if—

"(i) the insured depository institution fails to meet any operational and managerial standard established pursuant to paragraph (1) or asset and earnings standard established pursuant to paragraph (2); and

"(ii) the institution—

"(I) has been chartered as a depository institution for less than 2 years;

"(II) has undergone a change in control within the 2 years preceding the date on which the institution first failed to meet a standard described in clause (i); or

"(III) has experienced extraordinary growth (as defined by the agency) during the 18-month period ending on the date on which the institution first failed to meet a standard described in clause (i).

"(E) LIMITED GROWTH EXCEPTION.—Any order issued by any appropriate Federal banking agency under subparagraph (B) which prohibits any increase in the total assets of any insured depository institution in accordance with subparagraph (C)(i) may permit the institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(4) PROCEDURES.—Each appropriate Federal banking agency shall establish requirements and procedures for the preparation and submission of corrective action plans under paragraph (3) to the agency and shall require the agency to review and to approve or disapprove such plan before the end of the 60-day period beginning on the date such plan is received.

"(e) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(1) IN GENERAL.—An insured depository institution shall make no capital distribution if the institution would not meet all currently applicable capital standards after making the distribution.

"(2) EXCEPTION.—Notwithstanding paragraph (1), any appropriate Federal banking agency, after consultation with the Corporation, may approve a capital distribution by any insured depository institution which would, but for this subparagraph, be prohibited under paragraph (1), if the agency makes a prior written determination that the distribution will enhance the ability of the institution to satisfy capital standards and the institution submits a capital restoration plan in accordance with subsection (f)(1) which is approved by the agency.

"(f) PROVISIONS APPLICABLE TO UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(1) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized depository institution shall submit a capital restoration plan to the appropriate Federal banking agency before the end of the period prescribed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify how the insured depository institution will satisfy all applicable capital standards, without increasing the risk (including credit risk, interest rate risk, and other types of risk) to which the institution is exposed;

"(ii) specify the types and levels of activities in which the institution will engage; and

"(iii) contain such other information as the appropriate Federal banking agency may require.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—Each appropriate Federal banking agency shall establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution is first classified as an undercapitalized depository institution;

"(ii) require the agency to approve or disapprove any capital restoration plan expeditiously and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(2) ASSET GROWTH RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall prohibit any asset growth by any undercapitalized depository institution.

"(B) LIMITED GROWTH EXCEPTION.—The appropriate Federal banking agency may permit an undercapitalized depository institution to increase assets in an amount not to exceed the amount of net interest credited to the institution's deposit liabilities if—

"(i) the institution obtains the agency's written approval;

"(ii) any increase in assets is accompanied by an increase in tier 1 capital of a percentage (of such capital) which is not less than the leverage ratio applicable to the institution; and

"(iii) any increase in assets is invested in low-risk assets.

"(3) CAPITAL PLAN GUARANTEE.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall not approve a capital restoration plan under this subsection unless each company having control of the insured depository institution guarantees in writing the institution's compliance with the plan until the institution has satisfied all applicable capital standards for each of 12 consecutive months, and provides appropriate written assurances of continued performance.

"(B) AGGREGATE LIABILITY.—The aggregate amount of liability for any company under subparagraph (A) with respect to any insured depository institution shall not exceed the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(C) NO EFFECT ON SECURITIES EXCHANGE ACT REQUIREMENTS.—Nothing in this section shall be interpreted to supersede, or in any way limit or condition compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and the rules, regulations, and orders thereunder.

"(4) EXAMINATION RATINGS TAKEN INTO ACCOUNT.—In reviewing any capital restoration plan submitted under this section with respect to any insured depository institution, the appropriate Federal banking agency may take into account the CAMEL ratings of such institution under the Uniform Financial Institutions Rating System (or any equivalent rating under a comparable system).

"(g) PROVISIONS APPLICABLE TO LEVEL 4 AND LEVEL 5 DEPOSITORY INSTITUTIONS AND INSTITUTIONS THAT FAIL TO SUBMIT OR IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) SCOPE OF APPLICATION.—This subsection shall apply to—

"(A) any level 4 or level 5 depository institution; and

"(B) any undercapitalized depository institution which—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (f)(1)(C); or

"(ii) fails in any material respect to implement a capital restoration plan approved by the agency.

"(2) AGENCY ACTIONS REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall carry out the purpose of this section by issuing an order which imposes 1 or more of the actions described in paragraph (3) with respect to any institution described in paragraph (1).

"(B) SUBSECTION (h) ACTIONS AUTHORIZED.—In addition to actions described in paragraph (3), any appropriate Federal banking agency may issue an order which imposes, with respect to any institution described in paragraph (1), any restriction applicable under subsection (h) to any level 5 depository institution.

"(3) SPECIFIC ACTIONS AUTHORIZED.—The actions described in this paragraph with respect to any insured depository institution described in paragraph (1) are the following:

"(A) REQUIRING SALE OF SHARES OR OBLIGATIONS.—

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will satisfy capital standards after the sale.

"(ii) Requiring that instruments sold under clause (i) be voting shares.

"(B) RESTRICTING INTEREST RATES PAID.—Restricting the interest rates the institution pays on deposits accepted after the date of the order, including any renewal or rollover of any deposit held on such date.

"(C) PROHIBITING PAYMENT OF BONUSES TO EXECUTIVE OFFICERS.—Prohibiting the payment of any bonus to any executive officer.

"(D) PROHIBITING PAYMENT OF EXCESSIVE COMPENSATION TO EXECUTIVE OFFICERS.—Prohibiting the payment of compensation to any executive officer at a rate exceeding that officer's average rate of compensation during the 12 calendar months preceding the calendar month in which the institution ceased to comply with capital standards.

"(E) REQUIRING FDIC APPROVAL FOR NEW BRANCHES.—Requiring the institution to obtain the approval of the Corporation before establishing or acquiring any new branch.

"(F) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(G) RESTRICTING OTHER ACTIVITIES.—Prohibiting any other activity of the institution which the agency finds is detrimental, or is likely to be detrimental, to the institution's financial condition.

"(H) REQUIRING A NEW ELECTION OF DIRECTORS.—Requiring a new election for the institution's board of directors or any member of the board of directors.

"(h) ADDITIONAL PROVISIONS APPLICABLE TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) LIMITATIONS ON PAYMENTS ON SUBORDINATED DEBT.—

"(A) IN GENERAL.—An insured depository institution shall make no payment of principal or interest on the institution's subordinated debt unless, after making the payment, the institution would have capital in an amount which is equal to or greater than the critical capital level applicable with respect to such institution.

"(B) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until January 1, 1996, subparagraph (A) shall not apply with respect to any subordinated debt that is—

"(i) outstanding on January 1, 1991; and

"(ii) not extended or otherwise renegotiated after such date.

"(2) CONSERVATORSHIP OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—Before the end of the 120-day period beginning on the date the capital of any insured depository institution ceases to equal or exceed the critical capital level specified under subsection (b)(3), the appropriate Federal banking agency shall, notwithstanding any provision of any State law, appoint a conservator or receiver for the institution under this Act or any other applicable Federal law.

"(B) OTHER ACTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any institution described in such subparagraph, the appropriate Federal banking agency shall take any other action described in subsection (g)(3) which the agency determines to be appropriate in lieu of such appointment if the agency—

"(i) determines in writing, with the concurrence of the Corporation, that such action would better achieve the purposes of this section; and

"(ii) documents that such action would protect the appropriate deposit insurance fund more than the immediate appointment of a conservator or receiver for such institution.

"(C) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by any appropriate Federal banking agency under subparagraph (B) to take any action with respect to an insured depository institution in lieu of the appointment of a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date such determination is made and a conservator or receiver shall be appointed for such institution pursuant to subparagraph (A) unless the agency makes a new determination under subparagraph (B) at the end of the effective period of the prior determination.

"(D) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—In the case of any institution referred to in subparagraph (A) for which a receiver has not been appointed and notwithstanding any provision of the law of any State, the appropriate Federal banking agency shall appoint a receiver for such institution as follows:

"(i) If the capital of such institution does not exceed the critical capital level at the end of the 6-month period beginning on the date action is first taken by the agency under subparagraph (A) or (B), a receiver shall be appointed at the end of such period.

"(ii) If the capital of such institution exceeds the critical capital level at the end of the 6-month period but fails to exceed such level at the end of any of the 3 months immediately following the end of that period, a receiver shall be appointed.

"(E) ACQUISITION BY ANOTHER INSURED DEPOSITORY INSTITUTION.—Notwithstanding the requirement under subparagraph (A) to appoint a conservator or receiver for any insured depository institution described in such subparagraph and subject to section 13, the appropriate Federal banking agency may require the insured depository institution to be acquired (as defined in section 13(f)(8)(B)) by another insured depository institution which offers to acquire such institution if the agency determines, with the concurrence of the Corporation, that such acquisition would resolve the capital problems of the institution in a manner that is least costly to the affected deposit insurance fund and the taxpayer.

"(i) RESTRICTING ACTIVITIES OF LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In addition to any other action authorized or required under this section, the Corporation shall, by regulation or order, restrict the activities of any level 5 depository institution.

"(2) MINIMUM RESTRICTIONS.—Regulations and orders prescribed or issued by the Corporation under paragraph (1) with respect to any institution described in such paragraph shall prohibit, at a minimum, the following activities by any such institution without the Corporation's prior written approval:

"(A) Any material transaction other than in the usual course of business, including any investment, expansion, acquisition, or other similar action with respect to which the institution is required to provide notice to the appropriate Federal banking agency.

"(B) Any highly leveraged transaction.

"(C) Any amendment to any charter or bylaws other than to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Any material change in accounting methods.

"(E) Any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Payment of excessive compensation or bonuses.

"(G) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds.

"(H) Any other limitation on activities which will carry out the purposes of this section.

"(3) TERMINATION OF AFFILIATIONS.—The appropriate Federal banking agency or the Corporation may require any level 5 depository institution or any depository institution holding company which controls such institution to terminate any affiliation with any affiliate of such institution (other than an affiliate which is an insured depository institution) if the agency or the Corporation determines that the affiliate—

"(A) is in danger of default;

"(B) poses a significant risk to the liquidity or solvency of the insured depository institution or any insured depository institution subsidiary of such company; or

"(C) is likely to cause a significant dissipation of such institution's or subsidiary's assets or earnings.

"(4) CONSULTATION WITH OTHER FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (3) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commission and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(j) REVIEW REQUIRED IF INSURANCE FUND INCURS LOSS.—

"(1) IN GENERAL.—If any insurance fund or the Resolution Trust Corporation incurs a loss with respect to an insured depository institution on or after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Inspector General of the Corporation shall—

"(A) review the regulatory supervision of the institution (including the implementation of this section) and ascertain why there was a loss to the fund;

"(B) transmit a written report to the appropriate Federal banking agency, the Corporation, and, in the case of a State deposi-

tory institution, the appropriate State bank supervisor on the results of the review under subparagraph (A), including recommendations for preventing any such loss in the future; and

"(C) provide a copy of the report to—

"(i) the Comptroller General of the United States; and

"(ii) the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(2) LOSS INCURRED.—For purposes of this subsection, any insurance fund incurs a loss with respect to an insured depository institution—

"(A) if the Corporation provides any assistance under section 13(c) with respect to that institution; or

"(B) if the Corporation is appointed receiver for the institution.

"(3) DEADLINE FOR REPORT.—The Inspector General of the Corporation shall comply with paragraph (1) expeditiously, and in any event as follows:

"(A) If the institution is described in paragraph (2)(A), before the end of the 18-month period beginning when the assistance is provided unless the assistance is fully repaid before the end of that period.

"(B) If the institution is described in paragraph (2)(B), before the end of the 12-month period beginning on the date the receiver is appointed for the institution.

"(4) PUBLIC DISCLOSURE REQUIRED.—The Corporation shall disclose any report under paragraph (1)(B) upon request under section 552 of title 5, United States Code, without excising—

"(A) any portion of the report under section 552(b)(5); or

"(B) any information about the insured depository institution under paragraph (4) or (8) of section 552(b).

"(5) GAO REVIEW.—The Comptroller General of the United States shall annually—

"(A) review reports made under paragraph (1)(B) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) audit 1 or more of those reports.

"(6) APPLICABILITY.—This subsection shall not apply with respect to any assistance provided under section 13(c), or the appointment of any receiver, before the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(k) NEW CAPITAL PLAN NOT REQUIRED FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e), (f), (g), (h), and (i) shall not apply before July 1, 1994, with respect to any insured savings association if—

"(1) before the end of the 30-day period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the savings association has submitted a plan meeting the requirements of section 5(t)(6) of the Home Owners' Loan Act;

"(2) the Director of the Office of Thrift Supervision approves or does not disapprove that plan;

"(3) the plan remains in effect; and

"(4) the savings association remains in compliance with the plan.".

(b) CONSERVATORSHIP AND RECEIVERSHIP AUTHORITY.—

(1) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR STATE BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) In the case of any undercapitalized depository institution (as defined in section 38(b))—

"(i) failure to submit a capital restoration plan acceptable to the appropriate Federal banking agency within the time prescribed under section 38(f)(1)(C); or

"(ii) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(2) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR FOR NATIONAL BANKS.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended—

(A) by striking "or" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; or"; and

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

"(9) in the case of a bank not in compliance with all currently applicable capital standards, the bank fails—

"(A) to submit a capital restoration plan acceptable to the Comptroller of the Currency within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

"(B) to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

(3) ADDITIONAL GROUNDS FOR APPOINTING RECEIVER FOR NATIONAL BANKS.—The Comptroller of the Currency may appoint a receiver for any national bank which is not in compliance with all currently applicable capital standards if the bank—

(A) fails to submit a capital restoration plan acceptable to the Comptroller within the time prescribed under section 38(f)(1)(C) of the Federal Deposit Insurance Act; or

(B) fails to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C) of the Federal Deposit Insurance Act.

(4) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR FEDERAL SAVINGS ASSOCIATIONS.—Section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) is amended—

(A) by striking "or" at the end of clause (vii);

(B) by striking the period at the end of clause (viii) and inserting a semicolon; and

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

"(ix) with respect to an association not in compliance with all currently applicable capital standards prescribed by the Director—

"(I) failure to submit a capital restoration plan acceptable to the Director within the time prescribed under section 38(f)(1)(C); or

"(II) failure to implement a capital restoration plan submitted and accepted under section 38(f)(1)(C).".

SEC. 132. APPOINTMENT OF CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Section 11(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(4)) is amended to read as follows:

"(4) APPOINTMENT OF THE CORPORATION BY THE CORPORATION.—

"(A) IN GENERAL.—Except as otherwise provided in section 21A of the Federal Home Loan Bank Act and notwithstanding any other provision of Federal law or the law or the constitution of any State, the Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State bank supervisor (if any), if the Board of Directors determines that—

"(i) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(ii) the appointment is necessary to reduce—

"(I) the risk that the affected deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(II) any loss that the affected deposit insurance fund is expected to incur with respect to that institution.

"(B) NONDELEGATION.—The Board of Directors shall not delegate any action under this paragraph.".

(b) AMENDMENT RELATING TO APPLICABLE GROUND.—Section 11(c)(5)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)(B)) is amended to read as follows:

"(B) A finding by the Corporation that—

"(i) a conservator, receiver, or other legal custodian has been appointed for the institution;

"(ii) the institution has been subject to the appointment of any such conservator, receiver, or custodian for a period of at least 15 days; and

"(iii) 1 or more of the depositors in the institution is unable to withdraw any amount of any insured deposit.".

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9) as paragraphs (6), (7), (8), (9) and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this section with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the affected deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the affected deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to in-

terest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the affected deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.".

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

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

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) Exception.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. LIMITATION ON USE OF LIQUIDITY LENDING FOR DEPOSIT INSURANCE FUND PURPOSES.

(a) REDESIGNATION OF SECTION 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act is amended by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATION ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as so redesignated by subsection (a) of this section) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following new subsection:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is a viable depository institution; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is a viable depository institution,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as a level 5 depository institution under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO LEVEL 5 DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED COSTS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any level 5 depository institution (as defined in section 38 of the Federal Deposit Insurance Act)—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a level 5 depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of such 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs costs in excess of the cost of liquidating such institution as of the end of such period,

the excess cost shall be an obligation of the Board to the affected deposit insurance fund, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS COST.—The liability of the Board under subparagraph (A) for the amount of any excess cost described in such subparagraph shall not exceed the amount of the loss the Board or any Federal Reserve bank would have realized on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) as if such increased advances had not been secured.

"(C) SEMIANNUAL ASSESSMENTS ON FEDERAL RESERVE BANKS TO PAY OBLIGATION.—The amount of any liability of the Board to the Federal Deposit Insurance Corporation shall be paid by the Board from the proceeds of semiannual assessments which the Board may impose on the net earnings of the Federal Reserve banks.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) PERMISSIBLE ADVANCES TO AVOID SYSTEMIC RISK.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, any Federal Reserve bank may make advances to an undercapitalized depository institution under this section if the Secretary of the Treasury determines in writing, upon the recommendation of the Board, that the advances are necessary to prevent a severe adverse effect on a regional or the national economy.

"(B) LIABILITY FOR INCREASED COST.—To the extent that any advance pursuant to a determination of the Secretary of the Treasury under subparagraph (A) to any depository institution causes any deposit insurance fund in the Federal Deposit Insurance Corporation to incur costs in excess of the cost of liquidating such institution as of the first day of such advance, such excess cost shall be an obligation of the United States.

"(C) NOTICE.—The Secretary of the Treasury shall provide a written notice of each determination under subparagraph (A) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and each notice shall contain a description of the basis for the determination.

"(6) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate federal banking agency' has the meaning given such term in section 3(q) of the Federal Deposit Insurance Act.

"(B) CRITICAL CAPITAL LEVEL.—The term 'critical capital level' has the same meaning given to such term in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the meaning given to such term in section 19(b)(1)(A).

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is not in compliance with all currently applicable capital standards; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE DEPOSITORY INSTITUTION.—The term 'viable depository institution' means any depository institution which the appropriate Federal banking agency or the Board determines, giving due regard to the economic conditions and circumstances in the marketplace in which the institution operates, has capital in excess of the critical capital level and is not expected to fall below the critical capital level or be placed in conservatorship or receivership.".

(c) CONFORMING AMENDMENT.—Section 11 of the Federal Reserve Act is amended by adding the following new subsection:

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 143. NO ASSISTANCE TO TROUBLED INSTITUTION WITHOUT REMOVING MANAGEMENT AND REPUDIATING SHAREHOLDERS CLAIMS.

Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by inserting after paragraph (11) (as so redesignated by section 141(e) of this title) the following new paragraph:

"(12) ACTIONS REQUIRED IF ASSISTANCE IS PROVIDED.—

"(A) IN GENERAL.—Upon providing any assistance under this subsection to or on behalf of any insured depository institution and in addition to any other action or condition the Corporation may take or impose, the Corporation shall—

"(i) remove the board of directors of such institution; and

"(ii) treat the claim of any shareholder against the institution with respect to any share or other capital investment of such shareholder in the institution as if such institution had been closed.

"(B) PREEMPTION OF STATE LAW.—The requirements of this paragraph, and the duty of the Corporation to carry out such requirements, shall preempt any right of any shareholder in any insured depository institution under the law of any State.

"(C) WAIVER AUTHORITY.—

"(i) IN GENERAL.—The Corporation may waive the requirements of subparagraph (A)(i) for any person upon a written finding that such waiver would lessen the risk to the Corporation posed by the insured depository institution provided assistance.

"(ii) AUTHORITY LIMITED TO BOARD OF DIRECTORS.—The authority to waive the requirements of subparagraph (A)(i) may not be delegated by the Board of Directors.

"(iii) PUBLICATION OF WAIVER.—The Board of Directors shall publish a notice in the Federal Register of any waiver granted under this subparagraph and any amendment made by the Board to any such waiver.".

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. SHORT TITLE.

This subtitle may be cited as the "Uniform Depositor Protection Act of 1991".

SEC. 152. FEDERAL DEPOSIT INSURANCE REQUIRED FOR STATE CHARTERED BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) IN GENERAL.—After the end of the 2-year period beginning on the date of the en-

actment of this Act, no State depository institution or State credit union may accept deposits unless such depository institution or credit union is an insured depository institution or an insured credit union, as the case may be.

(b) DEFINITIONS.—For purposes of this section—

(1) STATE DEPOSITORY INSTITUTION.—The term "State depository institution" has the meaning given to such term by section 3(c)(5) of the Federal Deposit Insurance Act.

(2) STATE CREDIT UNION.—The term "State credit union"—

(A) has the meaning given to such term by section 101(6) of the Federal Credit Union Act; and

(B) includes—

(i) any corporate credit union; and

(ii) any member of the Central Liquidity Facility (as such terms are defined in section 302 of the Federal Credit Union Act).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term by section 3(c)(2) of the Federal Deposit Insurance Act.

(4) INSURED CREDIT UNION.—The term "insured credit union" has the meaning given to such term by section 101(7) of the Federal Credit Union Act.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the foreign bank engages directly in the business of banking outside the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country;

"(B) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(C) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(D) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(E) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(3) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(B) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code, (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

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

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(3) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

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

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.— Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting "'affiliate,'" after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

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

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons

referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

Subtitle B—Customer and Consumer Provisions

SEC. 221. PAPERWORK REDUCTION AND IMPROVEMENTS IN ADMINISTRATION OF COMMUNITY REINVESTMENT ACT OF 1977.

(a) REPORT TO CONGRESS.—

(1) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, each appropriate Federal banking agency shall submit to the Banking, Finance and Urban Affairs Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate a report containing the following:

(A) Identification of the documentation deemed by each agency to be necessary to properly carry out examinations under the Community Reinvestment Act of 1977.

(B) Recommendations for steps to reduce paperwork required of insured depository institutions in connection with examinations for compliance with the Community Reinvestment Act of 1977.

(C) Recommendations for improvements in the administration and enforcement of the Community Reinvestment Act of 1977.

(2) CONSIDERATIONS.—

(A) ASSET SIZE.—In preparing the recommendations for the report under paragraph (1), the appropriate Federal banking agency shall take into consideration the asset size of insured depository institutions and the administrative resources available to such institutions in developing recommendations for reduction of paperwork.

(B) CONSISTENCY OF RECOMMENDATION WITH PURPOSES OF THE ACT.—The recommendations for reduced paperwork contained in the report under paragraph (1) shall be consistent with the purposes of the Community Reinvestment Act of 1977 and the responsibility of the appropriate Federal banking agency to properly evaluate each insured depository institution performance under the Act.

(b) GAO STUDY AND RECOMMENDATIONS FOR IMPROVEMENTS AND COST SAVINGS.—

(1) REQUIRED.—The Comptroller General of the United States shall conduct a study of the examination processes used by the appropriate Federal banking agencies to evaluate the compliance with the Community Reinvestment Act of 1977.

(2) FACTORS TO BE CONSIDERED.—The study conducted under paragraph (1) shall include the following analyses:

(A) An analysis of the documentation required of insured depository institutions by each appropriate Federal banking agency in carrying out such examinations referred to in paragraph (1).

(B) An analysis of to what extent, if any, such documentation may vary according to the asset size of insured depository institutions.

(C) An analysis of the cost of such documentation based on a representative sample of various insured depository institutions by asset size.

(D) An analysis of the effect of such documentation on the costs to the agency in carrying out an examination under section 804 of the Community Reinvestment Act of 1977.

(E) An analysis of the number of—

(i) applications which have been filed by insured depository institutions which are subject to evaluation under provisions of the Community Reinvestment Act of 1977;

(ii) such applications which have been subject to formal protests;

(iii) such protests which have been granted public hearings by each of the banking agencies; and

(iv) such applications which have been denied on the grounds of unsatisfactory performance under the Community Reinvestment Act of 1977.

(F) An analysis of the time required to process applications subject to evaluation under the Community Reinvestment Act of 1977.

(G) An analysis of the methods utilized by each banking agency in processing protests filed under the Community Reinvestment Act of 1977.

(H) An analysis of the rating systems used by each appropriate Federal banking agency under the Community Reinvestment Act of 1977, together with a detailed description of any inconsistencies between the rating systems used by each such agency and the weight given the ratings in processing and evaluating protests filed under such Act.

(I) An analysis of the factors considered in evaluating the performance of credit card banks and other nontraditional institutions under the Community Reinvestment Act of 1977.

(3) REPORT.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report containing the findings and conclusions made by the Comptroller General in connection with the study required under paragraph (1).

(4) RECOMMENDATIONS.—The report submitted under paragraph (3) shall contain any recommendations for legislative or administrative action the Comptroller General may determine to be appropriate, including any legislative recommendations relating to—

(A) proposals to make administration and enforcement of the the Community Reinvestment Act of 1977 more effective and consistent with the purposes of the Act; and

(B) proposals to reduce costs associated with examinations under, and the enforcement of, such Act.

(c) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 222. ADDITIONAL FACTOR IN ASSESSING MAJORITY-OWNED INSTITUTION'S RECORD OF MEETING COMMUNITY CREDIT NEEDS.

Section 804 of the Community Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency shall consider and give credit for capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions that help meet the credit needs of local communities in which such institutions and credit unions are chartered.".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

SEC. 224. FAIR HOUSING REPORTING.

Effective 1 year after the date of the enactment of this Act, no Federal agency shall require any institution for which the agency is the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) to prepare, file, or maintain any form for the purpose of collection, analysis, or maintenance of appropriate data to further the purposes of, or to fulfill the requirements of, the Fair Housing Act, other than a form for data collection, analysis, or maintenance prescribed pursuant to the Home Mortgage Disclosure Act.

SEC. 225. REGULATORY BURDEN STUDY.

(a) IN GENERAL.—The Secretary of the Treasury and the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) shall each conduct a review of all laws primarily under their respective jurisdictions and all regulations prescribed by them (except with respect to the Internal Revenue Code of 1986, and all regulations, rules, and orders issued thereunder) with respect to such laws to determine whether such laws and regulations adversely affect the capital position and profitability of insured depository institutions.

(b) ADDITIONAL REVIEW REQUIRED.—The review required by subsection (a) shall include an evaluation to determine whether such laws and regulations impose duplicative paperwork and compliance requirements.

(c) REPORT REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, and the head of each appropriate Federal banking agency shall each submit a report to the Congress containing—

(1) a description of the laws and regulations that should be revised, simplified, repealed, or rescinded in order to enhance the capitalization and profitability of insured depository institutions without adversely affecting safety and soundness and consumer protection;

(2) to the extent practicable, an analysis of the costs and benefits of such laws and regulations, including those pertaining to corporate applications and filings and other reporting and recordkeeping requirements;

(3) an analysis of the cost impact and effect on safety and soundness of reducing the number of items to be reported on reports of condition of depository institutions with assets of less than $50,000,000; and

(4) an evaluation of the appropriateness of terminating recordkeeping and reporting requirements not directly related to safety and soundness.

SEC. 226. NOTICE OF SAFEGUARD EXCEPTION.

Section 604(f)(2) of the Expedited Funds Availability Act (12 U.S.C. 4003(f)(2)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) After a depository institution has provided notice as required under subparagraphs (A), (B) and (C), no further notice shall be required until the earlier of 1 year after notice has been provided or such other time as the exception for which the notice was provided ceases to apply.".

SEC. 227. PROHIBITION ON DECEPTIVE PRACTICES RELATING TO ELECTRONIC FUND TRANSFERS FROM ACCOUNTS.

(a) IN GENERAL.—Section 907 of the Electronic Fund Transfer Act (15 U.S.C. 1693e) is amended by adding at the end the following new subsection:

"(c) PROHIBITION ON CERTAIN DECEPTIVE PRACTICES INVOLVING PREAUTHORIZED TRANSFERS FROM ACCOUNTS.—

"(1) IN GENERAL.—No preauthorized electronic fund transfer, or any other electronic fund transfer, from any consumer's account may be made on the basis of any endorsement, deposit, transfer, or other form of negotiation of any check by the consumer.

"(2) NO PROVISION OF ANY CHECK MAY CONSTITUTE AUTHORIZATION OF CONSUMER.—No provision contained on any check which is received by a receiving depository institution and is endorsed, deposited, transferred, or otherwise negotiated by any consumer may be treated as constituting the authorization of the consumer to make any preauthorized electronic fund transfer, or any other electronic fund transfer, from the consumer's account.

"(3) REGULATIONS.—The Board shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(4) CHECK DEFINED.—For purposes of this subsection, the term 'check' has the meaning given to such term in section 602(7) of the Expedited Funds Availability Act.

"(5) RECEIVING DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'receiving depository institution' has the meaning given to such term in section 602(20) of the Expedited Funds Availability Act.".

(b) SCOPE OF APPLICATION.—The amendment made by subsection (a) shall apply with respect to any electronic fund transfer on or after the date of the enactment of this Act without regard to the date of the endorsement, deposit, transfer, or other form of negotiation of the check which, but for the enactment of such amendment, would constitute the authorization of the consumer to make any such transfer.

SEC. 228. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 229. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—

"(1) IN GENERAL.—Each insured depository institution shall adopt policies for closings of branches of the institution.

"(2) CONTENTS OF POLICIES.—Policies adopted under this subsection by an insured depository institution may include, among other matters, the following:

"(A) IDENTIFICATION OF CANDIDATES FOR CLOSING.—A requirement that in identifying branches as candidates for closing, consideration shall be given to profitability and growth potential as indicated by, at a minimum—

"(i) deposit level and mix;

"(ii) loan level and mix;

"(iii) trends in deposits and loans;

"(iv) operating income;

"(v) operating expense and size of staff; and

"(vi) transaction volume and mix;

except that in the case of a closure of an automated teller machine, only clauses (v) and (vi) need be considered.

"(B) MARKET EVALUATION.—A requirement that in evaluating whether to close a branch, the institution shall assess the market demographics of, and the availability of competitive financial services to, the immediate market area of the branch, including assessment of—

"(i) economic trends and forecasts for the immediate market area;

"(ii) the overall coverage of the general market area of the branch, including by other branches of the institution;

"(iii) other financial institutions that serve that general market area, including locations of branches of such other institutions; and

"(iv) except in the case of a closing of an automatic teller machine, general deposit and loan trends—

"(I) at other branches of the depository institution, and

"(II) if available, at locations of competitor depository institutions that serve the general market area of the branch.

"(C) ASSESSMENT OF IMPACT.—A requirement that the following measures shall be taken to assess the impact of any decision to close a branch:

"(i) Determination of whether alternative actions could be taken to improve the profitability of the branch to make it viable on a long-term basis.

"(ii) Forecast the resulting—

"(I) account runoff, and

"(II) operating costs savings, including those resulting from reductions in staff and occupancy costs.

"(iii) Consider the impacts, if any, on surrounding neighborhoods and the actions that can be taken to minimize those impacts, including, at a minimum, by evaluation and financial consideration of other service alternatives for the market area of the branch, including—

"(I) other nearby branches, and

"(II) any appropriate changes in facilities where customers' accounts would be moved.

"(D) REVIEW AND APPROVAL.—Requiring the following reviews and approvals for all proposed branch closings:

"(i) Initiation of any such proposal by the appropriate executive officer responsible for the affected community.

"(ii) Review and approval of any recommendation of such an action by—

"(I) a regional executive officer,

"(II) the appropriate branch group manager,

"(III) the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(IV) the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977,

"(V) appropriate executive management of the institution, and

"(VI) the Board of Directors of the institution.

"(E) NOTIFICATION TO CUSTOMERS.—Compliance with the following notification procedures for all branch closings:

"(i) Making every effort before the closing to assure that those affected by the closing, including neighborhood and political groups, are given ample and appropriate notice of the proposed closing, including by posting notice of the closing in the branch lobby and at each drive-in and automatic teller machine of the branch at least 30 days before the effective date of the action.

"(ii) Except in the case of a closing of an automatic teller machine, provision of a written notice to all account holders and safe deposit box customers at the branch at least 30 days before the effective date of the action, which includes—

"(I) the effective date of the action,

"(II) the branch to which accounts will be transferred,

"(III) the location of other nearby facilities of the institution, and

"(IV) a telephone number which customers may use to obtain further information about the action.

"(F) DOCUMENTATION.—The following documentation requirements:

"(i) Maintenance of all written analyses and decision approvals related to the closing (including all customer complaints about the closing that are submitted in writing) by the officer of the institution responsible for compliance with requirements of the Community Reinvestment Act of 1977, for a period of at least 2 years after the effective date of the closing.

"(ii) Indication in all written analyses related to the closing of whether the neighborhood surrounding the branch is a low- to moderate-income area.

"(iii) Maintenance by the branch officer responsible for compliance with requirements of the Community Reinvestment Act of 1977 of all customer complaints about the closing that are submitted in writing.

"(3) BRANCH DEFINED.—For purposes of this subsection, the term 'branch' includes an automatic teller machine.".

Subtitle C—Bank Enterprise Act

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122 and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of 1/2 the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

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

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under subsection (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of the assets of the institution which consist of loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of the deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase in loans and other extensions of credit made within that community, during the semiannual period, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan activity by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution which meets such requirements, (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under paragraph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assessment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under paragraph section 7(d)(1)(B).

(f) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. DISTRESSED COMMUNITIES LACKING INSURANCE SERVICES.

(a) IN GENERAL.—With the approval of the appropriate Federal banking agency, any insured depository institution which is located in (or maintains a branch located in) a qualified distressed community may sell insurance to the extent—

(1) the insurance sales activities are confined to that community; and

(2) the insurance is sold only to residents of the community or individuals employed within such community.

(b) CERTAIN ACTIVITIES PROHIBITED IN CONNECTION WITH INSURANCE ACTIVITIES.—No insured depository institution which sells insurance pursuant to subsection (a) may—

(1) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the institution by the insurance company for which the institution is acting as agent; or

(2) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

(c) AGENCY DETERMINATION OF UNAVAILABILITY OF INSURANCE SERVICES.—

(1) IN GENERAL.—The appropriate Federal banking agency may approve an application by an insured depository institution to sell insurance under subsection (a) in any qualified distressed community only if such agency—

(A) provides notice to the appropriate insurance regulatory authority of the application;

(B) considers any recommendation submitted by such authority with respect to such application; and

(C) concludes, after proceedings in accordance with section 8(h) of the Federal Deposit Insurance Act, that the availability of insurance agents providing competitively priced products in the community is inadequate.

(2) RECOMMENDATIONS OF APPROPRIATE INSURANCE REGULATORY AUTHORITY.—If the conclusion of the appropriate Federal banking agency with respect to any application under subparagraph (A) is inconsistent with any recommendation of the appropriate insurance regulatory authority under such subparagraph, the agency shall include a written explanation of the agency's reasons for the inconsistency in the record of such proceeding and transmit a copy of such explanation to the authority.

(d) APPLICABILITY OF CONSUMER PROTECTION PROVISIONS.—Section 4(n) of the Financial Services Holding Company Act of 1991 and section 106(b) of the Bank Holding Company Act Amendments of 1970 shall apply to the insurance sales activities of any insured depository institution under this subsection in the same manner and to the same extent such sections apply to insurance activities of an insured depository institution subsidiary of a financial services holding company.

(e) COORDINATION WITH STATE LAW.—

(1) IN GENERAL.—This section shall not alter or affect the laws of any State relating to insurance activities of insured depository institutions within such State except to the extent that any such law is inconsistent with any provision of this section.

(2) EFFECT OF INCONSISTENCY.—This section shall supersede any provision of the law of any State which is inconsistent with any provision of this section.

(f) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

SEC. 235. COMMUNITY DEVELOPMENT ORGANIZATIONS.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in any community development credit union which meets the requirements established by the National Credit Union Administration Board for community development credit unions; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community develop-

ment corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

TITLE III—NATIONWIDE BANKING AND BRANCHING

SEC. 301. NATIONWIDE BANKING.

(a) INTERSTATE ACQUISITIONS.—Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended to read as follows:

"(d) INTERSTATE ACQUISITIONS AND BRANCHING.—

"(1) IN GENERAL.—The Board may approve an application under this section by a bank holding company or foreign bank to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional insured depository institution or bank holding company located in any State.

"(2) STATE LAW.—Any acquisition described in paragraph (1) that has been approved under this section may be consummated notwithstanding any State law that would prohibit or otherwise limit such acquisition on the basis of—

"(A) the location or size of the acquiring company, foreign bank, or subsidiary of such company or foreign bank;

"(B) the number of insured depository institution subsidiaries of such company or foreign bank; or

"(C) any other factor that, directly or indirectly, has the effect of prohibiting or limiting the acquisition of shares or control of an insured depository institution or bank holding company located in that State by an out-of-State bank holding company or foreign bank if such factor is not applied with similar effect in the case of acquisitions of insured depository institutions or bank holding companies located in such State by bank holding companies located in the State.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect at the end of the 3-year period beginning on the date of the enactment of this Act.

SEC. 302. INTERSTATE BRANCHING BY NATIONAL BANKS.

(a) LOCATION OF BRANCHES.—Section 5155(c) of the Revised Statutes (12 U.S.C. 36(c)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) in paragraph (2), by striking the 1st period and inserting "; and"; and

(3) by inserting after paragraph (2) the following new paragraph: "(3) at an initial location within any State in which a bank holding company having the same home State as the national bank could acquire a bank pursuant to section 3 of the Bank Holding Company Act of 1956 or at an initial location within any State in which a State bank chartered in the home State of the national bank could establish a branch, and, after the establishment of a branch at an initial location in the State, to the extent permitted in paragraphs (1) and (2) for national banks located in the State.".

(b) APPLICATION OF LAW OF HOST STATE.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively, and by inserting after subsection (e) the following new subsection:

"(f) Application of Law of Host State.—

"(1) FILING REQUIREMENTS FOR ESTABLISHMENT OF BRANCH.—

"(A) IN GENERAL.—Any State, other than the home State of a national bank, may require any national bank which is establishing a branch within such host State to comply with filing requirements that are not discriminatory in nature and have a similar effect as those that are otherwise imposed on a corporation in another State that is not engaged in the business of banking and seeks to engage in business in the host State.

"(B) FAILURE TO COMPLY.—The host State may prohibit any national bank the principal place of business of which is located in another State from establishing or operating a branch within the host State if the bank or any branch of such bank fails to comply with the filing requirements.

"(2) COMPLIANCE WITH STATE LAW AFTER ESTABLISHMENT.—

"(A) IN GENERAL.—Upon the establishment of a branch of a national bank in a host State, the branch shall be subject to the law of the host State in the same manner and to the same extent as a national bank the principal place of business of which is located in such State.

"(B) RULE OF CONSTRUCTION FOR SUBPARAGRAPH (A).—Subparagraph (A) shall not be construed as affecting the authority of the host State to tax any branch referred to in such subparagraph (A).".

(c) DEFINITIONS.—

(1) BRANCH.—Subsection (g) of section 5155 of the Revised Statutes (as so redesignated by subsection (b) of this section) is amended to read as follows:

"(g) BRANCH DEFINED.—For purposes of this section, the term 'branch' means any office, agency, or other place of business located in any State at which deposits are received, checks paid, or money lent.".

(2) OTHER DEFINITIONS.—Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by adding after subsection (i) (as so redesignated by subsection (b) of this section) the following new subsections:

"(j) HOME STATE DEFINED.—For purposes of this section, the term 'home State' means—

"(1) in the case of any national bank, the State in which the principal place of business of such bank is located; and

"(2) in the case of a bank holding company, the State in which the total deposits of all bank subsidiaries of such company is the largest.

"(k) STATE DEFINED.—For purposes of this section, the term 'State' has the meaning given to such term in section 3(a)(3) of the Federal Deposit Insurance Act.

"(l) HOST STATE DEFINED.—For purposes of this section, the term 'host State' is the State in which a bank establishes or maintains a branch other than the home State of such bank.".

SEC. 303. INTERSTATE CONSOLIDATION OR MERGER OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.

(a) CONSOLIDATION OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.—Subsection (a) of the 1st section of the Act entitled "An Act To provide for the consolidation of national banking associations." and approved November 7, 1918 (12 U.S.C. 215) is amended by inserting "or in any other State" after "located in the same State".

(b) MERGER OF NATIONAL BANKS OR STATE BANKS WITH NATIONAL BANKS.—Section 2(a) of the Act entitled "An Act To provide for the consolidation of national banking associations." and approved November 7, 1918 (12 U.S.C. 215a(a)) is amended by inserting "or in any other State" after "located within the same State".

(c) DEFINITIONS.—Section 3(4) of the Act entitled "An Act To provide for the consolidation of national banking associations." and approved November 7, 1918 (12 U.S.C. 215b(4)) is amended by striking ", located within the same State,".

(d) RETENTION OF BRANCHES FOLLOWING MERGER OR CONSOLIDATION WITH NATIONAL BANKS.—Section 5155(b)(2) of the Revised Statutes (12 U.S.C. 36(b)(2)) is amended to read as follows:

"(2) RESULTING NATIONAL BANKS.—

"(A) RETENTION OF EXISTING BRANCHES.—A national bank resulting from the consolidation of a national bank (under whose charter such consolidation is effected) with any other bank may retain and operate as a branch any office which, immediately before such consolidation, was in operation as an office or branch of any bank participating in the consolidation if the Comptroller of the Currency approves the continued operation of such office or branch as a branch after the consolidation.

"(B) CONDITIONS FOR APPROVAL.—The Comptroller of the Currency may not grant approval under subparagraph (A) for the retention of any office or branch of any bank participating in the consolidation referred to in such subparagraph if, in a situation identical to that of the resulting national bank, any State bank which were to result from the consolidation of a State bank with any other bank would be prohibited by the law of the host State from retaining and operating as a branch, after such consolidation, any office or branch which is identically situated and was operated as an office or branch of the State bank immediately before the consolidation.".

SEC. 304. INTERSTATE BRANCHING BY STATE BANKS.

(a) IN GENERAL.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d))

is amended by inserting after paragraph (2) the following new paragraphs:

"(3) STATE LAW.—

"(A) LIMIT ON AUTHORITY OF STATE TO EXCLUDE.—Except as otherwise provided in this subsection, no State may prohibit any insured bank chartered by another State, and engaged in a banking business in another State, from establishing and maintaining 1 or more branches within the State.

"(B) AUTHORITY OF HOST STATE TO MAINTAIN FILING REQUIREMENTS.—

"(i) IN GENERAL.—A host State may require any insured bank chartered by another State which is establishing a branch within the host State to comply with filing requirements that are not discriminatory in nature and have a similar effect as requirements that are otherwise imposed on a corporation in another State that is not engaged in the business of banking and seeks to engage in business in the host State.

"(ii) FAILURE TO COMPLY.—The host State may prohibit any State bank the principal office of which is located in another State from establishing or operating a branch within the host State if the bank or any branch of such bank fails to comply with the filing requirements.

"(C) COMPLIANCE WITH STATE LAW AFTER ESTABLISHMENT.—

"(i) IN GENERAL.—Upon the establishment of a branch of a State bank in a host State, the branch shall be subject to the law of the host State in the same manner and to the same extent as a State bank chartered by, or organized under the laws of, such State.

"(ii) RULE OF CONSTRUCTION FOR CLAUSE (i).—Clause (i) shall not be construed as affecting the authority of the host State to tax any branch referred to in such clause.

"(4) LOCATION OF BRANCHES.—

"(A) IN GENERAL.—Any insured State bank may, if authorized by the law of the State in which the bank is chartered, establish and maintain—

"(i) a branch at an initial location within any other State in which a bank holding company, whose principal place of operations is the same State in which the insured bank is chartered, could acquire an additional bank pursuant to section 3 of the Bank Holding Company Act of 1956; and

"(ii) additional branches at locations within any State in which the bank has established an initial branch pursuant to clause (i), to the extent permitted for insured State banks located in such State under the law of such State (and for purposes of applying such law, the initial branch of the out-of-State insured bank in such State shall be treated as the head office of such bank in such State).

"(B) PRINCIPAL PLACE OF OPERATIONS DEFINED.—For purposes of this paragraph, the term 'principal place of operations' means the State in which the total deposits of all bank subsidiaries of such company are largest.

"(5) RESERVATION OF CERTAIN RIGHTS TO STATES.—Nothing in this subsection shall limit in any way the right of a State to determine the authority of State banks chartered in that State to establish and maintain branches, or to supervise, regulate, and examine State banks chartered by that State.

"(6) ACTIVITIES OF BRANCHES.—An insured State bank that establishes a branch or branches pursuant to paragraph (4) may not conduct any activity at such branch that is not permissible for a bank chartered by the host State.

"(7) COORDINATION OF EXAMINATION AUTHORITY.—

"(A) HOST STATE EXAMINATIONS OF BRANCHES IN STATE.—A host State bank supervisor may examine branches established in the host State by banks chartered by another State for the purpose of determining compliance with the applicable law of the host State and to ensure that the activities of the branch are conducted in a manner not inconsistent with sound banking principles and do not constitute a serious risk to the safe and sound operation of the branch.

"(B) HOST STATE ENFORCEMENT OF STATE LAW TO IN-STATE BRANCHES OF OUT-OF-STATE BANKS.—If any appropriate State bank supervisor of any host State determines that an in-State branch of an out-of-State bank violated the applicable law of the host State or that the branch is being operated in a manner not consistent with sound banking principles or in an unsafe and unsound manner, such State bank supervisor may undertake such enforcement actions or proceedings as would be permitted under host State law if the branch were deemed to be a bank chartered by that host State.

"(C) COOPERATIVE AGREEMENTS.—The State bank authorities from 1 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State-chartered banks including cooperative agreements relating to the coordination of examinations and joint participation in examinations, to the extent the participation by a host State bank supervisor in the examination of a branch of an out-of-State bank is limited to the purposes described in subparagraph (A).".

(b) HOST STATE DEFINED.—Section 3(a) of the Federal Deposit Insurance Act (12 U.S.C. 1813a)) is amended by adding at the end the following new paragraph:

"(8) HOST STATE DEFINED.—For purposes of this subsection a 'host State' is the State in which a depository institution establishes or maintains a branch other than the State in which the depository institution is chartered and engaging in banking business.".

SEC. 305. INTERSTATE BRANCHING AND BANKING BY FOREIGN BANKS.

(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) (as amended by section 202(b) of this Act) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking paragraph (1) and inserting the following new paragraphs:

"(1) INITIAL FEDERAL BRANCH OR FEDERAL AGENCY.—

"(A) IN GENERAL.—A foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller of the Currency, establish and operate a Federal branch or Federal agency at an initial location in any State in which it is not operating a branch or agency pursuant to State law.

"(B) TRANSITION RULE.—Notwithstanding subparagraph (A), during the 3-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Comptroller of the Currency may only authorize the establishment under such subparagraph of a branch or agency by a foreign bank, as the case may be, if such establishment is not prohibited by the law of the relevant State.

"(2) ADDITIONAL BRANCHES AND AGENCIES.—A foreign bank which engages directly in a banking business outside the United States may establish and operate additional Federal branches or Federal agencies in any State in accordance with the provisions of subsection (h).".

(b) ESTABLISHMENT OF FEDERAL BRANCHES OR AGENCIES IN ADDITIONAL STATE.—Section 4(h)(1) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) (as amended by section 202(c) of this title) is amended—

(1) by striking "in the State in which such branch or agency is located";

(2) by inserting "or the initial branch of a national bank in a host State" after "the principal office of such national bank"; and

(3) by adding at the end the following sentence: "For purposes of section 5155(c) of the Revised Statutes, the home State of a foreign bank shall be the bank's home State as determined under section 5.".

(c) ESTABLISHMENT AND OPERATION OF OFFICES OF FOREIGN BANKS.—Section 5(a) of the International Banking Act of 1978 (12 U.S.C. 3103(a)) is amended to read as follows:

"(a) LIMITATIONS.—

"(1) PARITY OF TREATMENT WITH BANK HOLDING COMPANIES.—No foreign bank may establish or operate a State branch in any State outside such bank's home State unless a bank holding company, the principal place of operations, of which (under section 3 of the Bank Holding Company Act of 1956) is in the same State as the home State of the foreign bank, would be permitted to acquire a bank in such other State.

"(2) FEDERAL AND STATE APPROVAL GENERALLY.—No foreign bank may directly or indirectly establish or operate a State branch, State agency, or commercial lending company subsidiary outside of the foreign bank's home State unless the establishment and operation of such branch, agency, or company is approved by the Board pursuant to section 7 and the State bank supervisor of the State in which the new branch, agency, or company is to be located.

"(3) STATE LAW.—

"(A) LIMIT ON AUTHORITY OF STATE TO EXCLUDE.—Notwithstanding paragraph (2), after the end of the 3-year period beginning on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, no State shall prohibit a foreign bank having a State branch or State agency licensed by another State and engaged in a banking business in that other State, from establishing and maintaining 1 or more branches or agencies of that foreign bank within the State after approval from the State bank supervisor of such other State and the Board.

"(B) AUTHORITY OF HOST STATE TO MAINTAIN CERTAIN REQUIREMENTS.—The establishment, operation, and supervision of any branches or agencies referred to in subparagraph (A) shall be conducted in accordance with and be subject to the provisions applicable to an interstate branch of a State bank under section 18(d) of the Federal Deposit Insurance Act as if the branch in such other State were an insured State bank located in such other State.

"(4) FOREIGN BANKS TREATED AS HOLDING COMPANIES FOR PURPOSES OF CERTAIN ACQUISITIONS.—

"(A) IN GENERAL.—A foreign bank may not, directly or indirectly, acquire more than 5 percent of the voting shares of, or all or substantially all of the assets of, a bank holding company or bank located outside of the foreign bank's home State without the approval of the Board under section 3 of the Bank Holding Company Act of 1956.

"(B) APPLICABILITY OF BANK HOLDING COMPANY ACT OF 1956.—For purposes of subparagraph (A), section 3 of the Bank Holding Company Act of 1956 shall apply to a foreign bank or company referred to in such subparagraph as if the foreign bank or company were a bank holding company located in the foreign bank's home State.

"(5) INTERSTATE BRANCHES OR AGENCIES OF FOREIGN BANKS.—Notwithstanding paragraph (1) and section 4(h), a foreign bank may, with the approval of the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside of the foreign bank's home State if—

"(A) the establishment and operation of a branch or agency is expressly permitted by the State in which it is to be established; and

"(B) in the case of a Federal or State branch, the branch receives only such deposits as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act.".

SEC. 306. INTERSTATE ACQUISITIONS BY SAVINGS AND LOAN HOLDING COMPANIES.

Section 10(e)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)(3)) is amended to read as follows:

"(3) INTERSTATE ACQUISITIONS.—

"(A) IN GENERAL.—The Director may approve an application under this subsection for a savings and loan holding company or a foreign bank to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all the assets of any additional savings association located in any State.

"(B) STATE LAWS.—Any acquisition described in subparagraph (A) that has been approved under this section may be consummated notwithstanding any State law that would prohibit or otherwise limit such acquisition on the basis of—

"(i) the location or size of the acquiring company, foreign bank, or any subsidiary of such company or foreign bank;

"(ii) the number of insured depository institution subsidiaries of the company or foreign bank; or

"(iii) any other factor that, directly or indirectly, has the effect of prohibiting or limiting the acquisition of shares or control of a savings association or savings and loan holding company located in that State by an out-of-State savings and loan holding company or foreign bank if such factor is not applied without similar effect in the case of acquisitions of savings associations by savings and loan holding companies located in that State.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) STATE.—The term 'State' has the meaning given to such term in section 3(a)(3) of the Federal Deposit Insurance Act.

"(ii) FOREIGN BANK.—The term 'foreign bank' has meaning given to such term in section 1(b)(7) of the International Banking Act.".

SEC. 307. STATE-BY-STATE CRA EVALUATIONS OF DEPOSITORY INSTITUTIONS WITH INTERSTATE BRANCHES.

Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended by adding the following new subsection:

"(d) INSTITUTIONS WITH INTERSTATE BRANCHES.—

"(1) STATE-BY-STATE EVALUATION.—In the case of a regulated financial institution which maintains 1 or more domestic branches located outside the State in which the institution's principal place of business is located (hereafter in this subsection referred to as the 'home State'), the appropriate Federal financial supervisory agency shall prepare—

"(A) a written evaluation of the entire institution's record of performance under this Act, as required by subsections (a), (b), and (c) of this section; and

"(B) for each State in which the institution maintains 1 or more domestic branches (including the institution's home State), a separate written evaluation of the institution's record of performance within such State under this Act, as required by subparagraphs (A) and (B) of subsection (b)(1) of this section.

"(2) CONTENT OF STATE LEVEL EVALUATION.—A written evaluation prepared pursuant to paragraph (1)(B) of this subsection shall report the information required by such paragraph separately for each metropolitan area (as defined by the appropriate Federal financial supervisory agency) in which the regulated financial institution maintains 1 or more domestic branch offices and separately for the nonmetropolitan portion of the State if the institution maintains 1 or more domestic branch offices in such nonmetropolitan area.".

SEC. 308. PROHIBITION AGAINST DEPOSIT PRODUCTION OFFICES.

(a) REGULATIONS.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the appropriate Federal banking agency shall prescribe regulations which prohibit any person from using any authority to engage in interstate branching pursuant to this title or any amendment made by this title to any other provision of law primarily for the purpose of deposit production.

(b) GUIDELINES FOR MEETING CREDIT NEEDS.—Regulations issued under subsection (a) shall include guidelines to ensure that each interstate branch meets the credit needs of the community and market area in which the branch operates.

(c) LIMITATION ON OUT-OF-STATE LOANS.—

(1) LIMITATION.—Regulations issued under subsection (a) shall require that if the percentage of outstanding loans made by an interstate branch to borrowers located in the host State of, or market area served by, the branch is less than half the average of such percentage for all Federal depository institutions and State depository institutions having their principal place of operations in the host State or that market area—

(A) the appropriate Federal banking agency for the branch shall review the loan portfolio of the branch and determine whether the branch is reasonably meeting the credit needs of the community and market area in which the branch operates; and

(B) if the agency determines that the branch is not reasonably meeting those needs—

(i) the branch shall be closed, and

(ii) the person which established the branch may not open a new branch in that State unless the person provides reasonable assurances to the satisfaction of the appropriate Federal banking agency that the new branch will reasonably meet the credit needs of the community and market area in which the new branch will operate.

(2) CONSIDERATIONS.—In making a determination under paragraph (1)(A) regarding an interstate branch, the appropriate Federal banking agency shall consider—

(A) whether the branch was acquired as part of the purchase of a failed or failing depository institution;

(B) whether the branch has a higher concentration of commercial and credit card lending; and

(C) the ratings received by the branch in evaluations under the Community Reinvestment Act of 1977.

(d) APPLICATION.—This section shall not apply to any interstate branch acquired before June 25, 1991, as part of any consolidation or merger of depository institutions.

(e) DEFINITIONS.—For the purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning that term has in section 3 of the Federal Deposit Insurance Act.

(2) BRANCH.—The term "branch" means any office, agency, or other place of business located in any State at which deposits are received, checks paid, or money lent.

(3) FEDERAL DEPOSITORY INSTITUTIONS AND STATE DEPOSITORY INSTITUTION.—Each of the terms "Federal depository institution" and "State depository institution" has the meaning given that term in section 3 of the Federal Deposit Insurance Act.

(4) HOST STATE DEFINED.—The term "host State" means the State in which a bank establishes or maintains a branch, other than—

(A) the State in which the bank is chartered and engaging in banking business, or

(B) in the case of—

(i) a national bank, the State in which the principal place of business of such association is located, and

(ii) a bank holding company, the State in which the total deposits of all bank subsidiaries of such company is the largest,

as applicable under the amendments made by this title.

(5) INTERSTATE BRANCH.—The term "interstate branch" means a branch established pursuant to the authority referred to in subsection (a).

(6) PRINCIPAL PLACE OF OPERATIONS.—The term "principal place of operations" means the State in which the total deposits of all bank subsidiaries of a person are largest.

(7) STATE DEFINED.—The term "State" has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.

SEC. 309. RESTATEMENT OF EXISTING LAW.

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way the right of any State, or any political subdivision of any State, to impose or maintain a nondiscriminatory franchise tax or other nonproperty tax instead of a franchise tax in accordance with section 3124 of title 31, United States Code.

SEC. 310. VISITORIAL POWERS.

Section 5240 of the Revised Statutes (12 U.S.C. 481 et seq.) is amended—

(1) by inserting before the 6th undesignated paragraph (12 U.S.C. 484) the following new paragraph heading:

"(6) VISITORIAL POWERS.—";

(2) by moving the left margins of subparagraphs (A) and (B) of paragraph (6) (as so designated by the amendment made by paragraph (1) of this section) 4 ems to the right; and

(3) by inserting after subparagraph (B) of such paragraph the following new subparagraph:

"(C) STATE VISITATIONS AUTHORIZED FOR TAX COMPLIANCE PURPOSES.—Notwithstanding subparagraph (A), any lawfully authorized auditor, examiner, or other representative acting on behalf of any State agency charged with the administration and collection of taxes imposed by a State or any political subdivision of a State may review at reasonable times those books and records of any Federal depository institution (as defined in section 3(c)(4) of the Federal Deposit Insurance Act) or any Federal credit union (as defined in section 101(1) of the Federal Credit Union Act) which are reasonably nec-

essary to ensure compliance with the tax laws of the State or political subdivision.".

TITLE IV—FINANCIAL SERVICES MODERNIZATION

Subtitle A—Amendments to Federal Banking Laws

CHAPTER 1—FINANCIAL SERVICES HOLDING COMPANIES

SEC. 401. FINANCIAL SERVICES HOLDING COMPANIES.

(a) DEFINITIONS AMENDED.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) by striking subsection (a)(1) and inserting the following:

"(a) TERMS RELATING TO CONTROL OF INSURED DEPOSITORY INSTITUTIONS.—

"(1) FINANCIAL SERVICES HOLDING COMPANY.—The term 'financial services holding company' means any company which controls any bank.";

(2) in the second sentence of subsection (a)(5)(A), by inserting a period after "thereto" and striking all that follows through the end of the sentence;

(3) by amending subsection (f) to read as follows:

"(f) BANKING AGENCIES.—

"(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

"(2) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System."; and

(4) by inserting after subsection (m) the following new subsections:

"(n) SECURITIES AFFILIATE.—The term 'securities affiliate' means any company which—

"(1) is controlled by a financial services holding company; and

"(2) is engaged in the United States in activities which would not be permitted by section 4(c) for any subsidiary of a financial services holding company but for section 4(c)(15).

"(o) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term in section 1(b)(7) of the International Banking Act of 1978.

"(p) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

"(q) LEVEL 1 DEPOSITORY INSTITUTION AND LEVEL 2 DEPOSITORY INSTITUTION.—The terms 'level 1 depository institution' and 'level 2 depository institution' have the meaning given to such terms in section 38 of the Federal Deposit Insurance Act.

"(r) LEVEL 1 FINANCIAL SERVICES HOLDING COMPANY.—The term 'level 1 financial services holding company' means any financial services holding company not less than 80 percent of the banking assets of which are held by level 1 depository institution subsidiaries and any other banking assets of which are held by level 2 depository institution subsidiaries.

"(s) FUNCTIONAL REGULATOR.—The term 'functional regulator' means any Federal agency or State supervisory authority that has supervisory authority over activities of any company which is a financial services holding company or any subsidiary of any such company (other than an insured depository institution).

"(t) NEW FINANCIAL ACTIVITY.—The term 'new financial activity' means any activity described in section 4(c)(8) or 4(c)(15) other than any activity that the Board has determined (by regulation or order that is in effect on December 31, 1992) to be so closely related to banking as to be a proper incident thereto.

"(u) QUALIFIED FINANCIAL ACTIVITY.—The term 'qualified financial activity' means any activity described in section 4(c)(8) or 4(c)(15).

"(v) FINANCIAL AFFILIATE.—The term 'financial affiliate' means any subsidiary of a financial services holding company (other than an insured depository institution) that is engaged in the United States in qualified financial activities.".

(b) CONFORMING AMENDMENTS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2)(J), by striking "to move such Corporation from Federal Savings and Loan Insurance Corporation insurance to Federal Deposit Insurance Corporation insurance" and inserting "to cause such corporation to cease to be a Savings Association Insurance Fund member and become a Bank Insurance Fund member (as defined in section 7(l) of the Federal Deposit Insurance Act)";

(2) in subsection (h)(5), by striking "bank" the 1st place such term appears and inserting "insured depository institution"; and

(3) by striking "bank holding company" each place such term appears (other than in subsection (b)) and inserting "financial services holding company".

SEC. 402. ACQUISITION OF BANKS.

(a) AMENDMENTS TO APPLICATION PROCESS.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting the following new paragraph: "(3) for any financial services holding company to acquire ownership or control of any voting shares of any insured depository institution or financial services holding company, if, after such acquisition, such company will own or control more than 5 percent of the voting shares of such institution or company;";

(B) by inserting before "Notwithstanding the foregoing" the following new sentence: "No insured depository institution (other than a foreign bank operating an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act) may become a financial services holding company.";

(C) by adding at the end the following new sentence: "Notwithstanding paragraph (1), any company that was a bank holding company on December 31, 1992, under this Act (as in effect on such date) shall be a financial services holding company as of January 1, 1993, without further approval by the Board."; and

(D)(i) by striking "or" at the end of subparagraph (A);

(ii) in subparagraph (B), by striking the 1st period and inserting "; or"; and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) the acquisition, by a company, of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed financial services holding company and receive after the reorganization substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholders' interests resulting from the exercise of dissenting shareholders' rights under State or Federal law if—

"(i) immediately following the acquisition, the bank is a level 1 or level 2 depository institution;

"(ii) the holding company does not engage in any activities other than those of managing and controlling banks as a result of the reorganization; and

"(iii) the company provides 30 days prior notice to the Board.";

(2) in subsection (b)—

(A) by striking the 1st sentence and inserting the following new sentence: "Upon receiving an application under this section from any company to acquire any interest in an insured depository institution, the Board shall give notice to any other appropriate Federal banking agency with respect to such institution and, in the case of a State depository institution, to the appropriate State bank supervisor in order to obtain the views and recommendations of such other agency and such supervisor."; and

(B) in the 3d sentence, by striking "disapproves" and inserting "recommends disapproval of";

(3) in paragraph (1) of subsection (c) (as so redesignated by section 202(d) of this Act)—

(A) by striking ", or" at the end of subparagraph (A) (as so redesignated) and inserting a semicolon;

(B) by striking the period at the end of subparagraph (B) (as so redesignated) and inserting "; or"; and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) any acquisition, merger, or consolidation if the Board determines that the insured depository institution to be acquired or any other insured depository institution controlled by the company involved in the proposal is engaging in any unsafe and unsound practice or, upon consummation of the transaction, would be in an unsafe and unsound condition."; and

(4) by redesignating subsection (d) (as amended by section 301(a) of this Act) and subsections (e) through (g) as subsections (e) through (h), respectively, and inserting after subsection (c) the following new subsections:

"(d) EXPEDITED PROCEDURES FOR ACQUISITION OF ADDITIONAL INSURED DEPOSITORY INSTITUTIONS BY LEVEL 1 FINANCIAL SERVICES HOLDING COMPANIES.—

"(1) PROCEDURES.—

"(A) NOTICE TO OTHER AGENCIES.—Upon receiving a complete application under this section from a level 1 financial services holding company to acquire an insured depository institution, the Board shall notify any other appropriate Federal banking agency and any appropriate State bank supervisor in the manner provided in subsection (b).

"(B) PERIOD FOR REVIEW.—Notwithstanding subsection (b)(1), any views and recommendations of any other appropriate Federal banking agency and any appropriate State bank supervisor which received notice from the Board pursuant to subparagraph (A) with respect to any application described in such subparagraph shall be submitted by such agency or supervisor to the Board before the end of the 21-day period beginning on the date such notice was received.

"(C) LIMITED PERIOD FOR DISAPPROVAL.—If the Board fails to approve or disapprove any application described in subparagraph (A) before the end of the 45-day period beginning on the date a complete application is submitted to the Board, the application shall be deemed to have been approved.

"(D) ADJUSTMENT OF PERIOD.—If, in connection with any application described in subparagraph (A), the Board—

"(i) determines that an emergency exists which requires expeditious action;

"(ii) determines that immediate action must be taken to prevent the probable failure of an insured depository institution; or

"(iii) is advised by the Federal Deposit Insurance Corporation or the appropriate State bank supervisor that an insured depository institution is in danger of default (as defined in section 3(x)(2) of the Federal Deposit Insurance Act),

the Board may waive or reduce the length of the 45-day notice period referred to in subparagraph (C) with respect to such application.

"(2) EXTENSION OF TIME FOR NOTICE AND HEARING.—

"(A) IN GENERAL.—The 45-day period referred to in paragraph (1)(C) may be extended if any other appropriate Federal banking agency or any appropriate State bank supervisor recommends in writing that the Board disapprove an application described in paragraph (1)(A).

"(B) REVIEW PERIOD AND PROCEDURES.—If any other appropriate Federal banking agency or any appropriate State bank supervisor recommends in writing that the Board disapprove an application described in paragraph (1)(A), the Board shall follow the review period and procedures for notice and hearing contained in subsection (b)(1).".

(b) CONFORMING AMENDMENTS.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) (as amended by subsection (a)), is amended—

(1) by striking "bank holding company" each place such term appears (other than the last sentence of subsection (a) (as added by this section) or where such term appears in the term "Bank Holding Company Act Amendments of 1970") and inserting "financial services holding company";

(2) in subsection (a)(2), by striking "causes a bank" and inserting instead "causes an insured depository institution"; and

(3) in subsection (a)(4)—

(A) by striking "other than a bank" and inserting "other than an insured depository institution"; and

(B) by striking "assets of a bank" and inserting instead "assets of an insured depository institution";

(4) in provision (a)(A), by striking "acquired by a bank" and inserting "acquired by an insured depository institution"; and

(5) in provision (a)(B), by striking "in a bank" and inserting "in an insured depository institution".

SEC. 403. INTERESTS IN NONBANKING ORGANIZATIONS.

(a) INTERESTS IN NONBANKING ORGANIZATIONS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) is amended—

(1) in subsection (a), by striking the last 2 sentences;

(2) in subsection (a)(2)—

(A) by striking "or in the case of a company which has been continuously" and all that follows through "December 31, 1980," and inserting "or in the case of a company that becomes a financial services holding company as a result of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, after December 31, 1992";

(B) by striking "unsound banking practices; and in the case of any such company" and all that follows through "this sentence." and inserting "unsound banking practices."; and

(C) by striking the last sentence;

(3) in subsection (a)(2)(A)—

(A) by striking "of banking or"; and

(B) by striking "subsidiaries, and" and inserting "subsidiaries and, in the case of a foreign bank, the business of banking, if such business is otherwise permitted through a branch or agency (as defined in section 1(b) of the International Banking Act of 1978); and"; and

(4) in subsection (a)(2)(B), by striking "those permitted under" and all that follows through "under such paragraph" and inserting the following: "those permitted under subsection (c)(8) or (c)(15) in accordance with subsection (i) or (k), subject to all the conditions specified in this section or in any regulation prescribed or order issued by the Board under this section";

(5) subject to subsection (c) of this section, by striking paragraph (8) of subsection (c) and inserting the following new paragraph:

"(8) shares of any company the activities of which the Board, after due notice and opportunity for comment, has determined (by order or regulation) to be of a financial nature (in accordance with subsection (i));";

(6) by striking "or" at the end of subsection (c)(13);

(7) by striking the period at the end of subsection (c)(14) and inserting "; or";

(8) by inserting after paragraph (14) of subsection (c) the following new paragraph:

"(15) shares of any company engaged in—

"(A) underwriting, distributing, or dealing in securities;

"(B) organizing, sponsoring, controlling, or promoting any registered investment company pursuant to the Investment Company Act of 1940;

"(C) securities brokerage, private placement, or investment advisory activities; or

"(D) other activities that require such company to register with the Securities and Exchange Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser.";

(9) by striking the last 2 sentences of subsection (c); and

(10) by striking subsection (i) and inserting the following new subsections:

"(i) ACTIVITIES OF A FINANCIAL NATURE.—

"(1) ACTIVITIES APPROVED BEFORE JANUARY 1, 1993.—Any activity that the Board has determined (by regulation or order that is in effect on December 31, 1992) to be so closely related to banking as to be a proper incident thereto shall be deemed to be an activity of a financial nature for purposes of subsection (c)(8).

"(2) CONTINUATION OF PRIOR ACTIVITIES WITHOUT ADDITIONAL APPROVAL.—In the case of any bank holding company which becomes a financial services holding company on January 1, 1993, as a result of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, no approval under subsection (c)(8) shall be required, by reason of the enactment of such Act, in order for—

"(A) such holding company or any company any shares of which are held by the holding company to continue to engage, after December 31, 1992, in any activity described in paragraph (1) which was commenced by the holding company or such company before such date pursuant to an approval in effect on such date; or

"(B) the holding company to continue to retain, after December 31, 1992, any shares of any company engaged in any activity described in paragraph (1) if the holding company lawfully acquired the shares, or the company commenced the activity, before such date pursuant to an approval that is in effect on such date.

"(3) SECURITIES ACTIVITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), the following activities shall not be activities of a financial nature for purposes of subsection (c)(8):

"(i) Underwriting, dealing in, or acting as principal in the placement of, securities that a national bank may not underwrite or deal in under section 5136 of the Revised Statutes.

"(ii) Securities activities which are described in subsection (c)(15) and are not described in paragraph (1).

"(B) TRANSITION RULE.—Notwithstanding subparagraph (A), any financial services holding company that receives the approval of the Board to underwrite and deal in securities described in subparagraph (A) may continue to engage in such activities pursuant to subsection (c)(8) for a period not to exceed 3 years beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, subject to any condition or limitation imposed by the Board.

"(4) REAL ESTATE ACTIVITIES.—

"(A) IN GENERAL.—Real estate investment, management, or development and the purchase and sale of real estate as principal or broker shall not be activities of a financial nature for purposes of subsection (c)(8).

"(B) CONTINUATION OF PRIOR ACTIVITIES.—Notwithstanding subparagraph (A), any activity described in such subparagraph that the Board has determined, before May 3, 1991, by a regulation or order that is in effect on December 31, 1992, to be so closely related to banking as to be a proper incident thereto may continue to be treated by the Board as an activity of a financial nature for purposes of subsection (c)(8).

"(5) LIMITATION ON INSURANCE ACTIVITIES WITHIN THE HOLDING COMPANY.—Providing insurance as a principal, agent, or broker shall not be deemed to be an activity of a financial nature, and no financial services holding company may permit any thrift institution or insured institution (as defined in subsections (i) and (j) of section 2, respectively), subsidiary of such company (other than a bank), or any subsidiary of any such institution, to provide insurance as a principal, agent, or broker, except—

"(A) where the insurance is limited to assuring repayment of the outstanding balance due on a specific extension of credit by a financial services holding company or its subsidiary in the event of the death, disability, or involuntary unemployment of the debtor;

"(B) in the case of a finance company which is a subsidiary of a financial services holding company, where the insurance is also limited to assuring repayment of the outstanding balance on an extension of credit in the event of loss or damage to any property used as collateral on such extension of credit and, during the period beginning on October 15, 1982, and ending on December 31, 1982, such extension of credit is not more than $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) and for any given year after 1982, such extension of credit is not more than an amount equal to $10,000 ($25,000 in the case of an extension of credit which is made to finance the purchase of a residential manufactured home and which is secured by such residential manufactured home) increased by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the Bureau of Labor Statistics for the period beginning on January 1, 1982, and ending on December 31 of the year preceding the year in which such extension of credit is made;

"(C) any insurance agency activity in a place that—

"(i) has a population not exceeding 5,000 (as shown by the last preceding decennial census); or

"(ii) the financial services holding company, after notice and opportunity for a hearing, demonstrates it has inadequate insurance agency facilities;

"(D) any insurance agency activity which was engaged in by the financial services holding company or any of its subsidiaries on May 1, 1982, or which the Board approved for such company or any of its subsidiaries on or before May 1, 1982, including—

"(i) sales of insurance at new locations of the same financial services holding company or the same subsidiary or subsidiaries with respect to which insurance was sold on May 1, 1982, or approved to be sold on or before May 1, 1982, if such new locations are confined to the State in which the principal place of business of the financial services holding company is located, any State or States immediately adjacent to such State, and any State or States in which insurance activities were conducted by the financial services holding company or any of its subsidiaries on May 1, 1982, or were approved to be conducted by the financial services holding company or any of its subsidiaries on or before May 1, 1982; and

"(ii) sales of insurance coverages which may become available after May 1, 1982, so long as those coverages insure against the same types of risks as, or are otherwise functionally equivalent to, coverages sold on May 1, 1982, or approved to be sold on or before May 1, 1982 (for purposes of this subparagraph, activities engaged in or approved by the Board on May 1, 1982, shall include activities carried on subsequent to that date as the result of an application to engage in such activities pending on May 1, 1982, and approved subsequent to that date or of the acquisition by such company pursuant to a binding written contract entered into on or before May 1, 1982, of another company engaged in such activities at the time of the acquisition);

"(E) any insurance activity where the activity is limited solely to supervising on behalf of insurance underwriters the activities of retail insurance agents who sell—

"(i) fidelity insurance and property and casualty insurance on the real and personal property used in the operations of the financial services holding company or any of its subsidiaries; and

"(ii) group insurance that protects the employees of the financial services holding company or any of its subsidiaries;

"(F) any insurance agency activity engaged in by a financial services holding company, or any of its subsidiaries, which financial services holding company has total assets of $50,000,000 or less, except that such a financial services holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C); or

"(G) where the activity is performed, or shares of the company involved are owned, directly or indirectly, by a financial services holding company which is registered with the Board of Governors of the Federal Reserve System and which, prior to January 1, 1971, was engaged, directly or indirectly, in insurance agency activities as a consequence of approval by the Board prior to January 1, 1971.

"(6) INSURANCE ACTIVITIES OF BANK SUBSIDIARIES OF HOLDING COMPANIES.—

"(A) IN GENERAL.—No financial services holding company may permit any bank subsidiary of such company, or any subsidiary of such bank, to provide insurance as a principal, agent or broker beyond the borders of the State in which the subsidiary bank is chartered unless such insurance activities in the nonchartering State are specifically authorized by the statutes of that State, by language to that effect and not merely by implication.

"(B) CONTINUATION OF PRIOR ACTIVITIES.—Notwithstanding subparagraph (A) or paragraph (5), any financial services holding company (or any successor of such company), or any bank subsidiary of a financial services holding company (and any subsidiary of any such bank subsidiary) may continue insurance activities otherwise prohibited by subparagraph (A) on an interstate basis—

"(i) so long as those coverages insure against the same types of risks, or are otherwise functionally equivalent to, coverages provided on or before June 1, 1991;

"(ii) to the extent that those activities were lawful and not the subject of legal challenge on that date; and

"(iii) subject to State regulation and control.

"(7) NONBANK ACTIVITIES OF SAVINGS ASSOCIATION SUBSIDIARIES.—

"(A) ACTIVITIES ALLOWED.—Notwithstanding any other provision of this section (other than paragraph (5) and subsection (f)), any qualified savings association and any subsidiary of any such association which is acquired by any financial services holding company after June 1, 1991, may engage in any activity, after such acquisition, in which any Federal savings association or any subsidiary of any Federal savings association may engage in accordance with the Home Owners' Loan Act and regulations prescribed pursuant to such Act.

"(B) QUALIFIED SAVINGS ASSOCIATION DEFINED.—For purposes of subparagraph (A), the term 'qualified savings association' means any savings association which—

"(i) was chartered or organized as a savings association before June 1, 1991;

"(ii) had, immediately before the acquisition of such association by the financial services holding company referred to in subparagraph (A), a ratio of tier 1 capital to total assets of 2 percent or less; and

"(iii) will become a level 1 or level 2 depository institution as a result of such acquisition.

"(8) NOTICE OF NEW DETERMINATIONS.—Whenever the Board makes a determination under subsection (c)(8) that any activity is an activity of a financial nature, the Board shall publish in the Federal Register, not later than 7 days after such determination is made, the regulation or order by which such determination has been made and a description of the activity.

"(j) PROVISIONS APPLICABLE TO HOLDING COMPANIES WITH SECURITIES AFFILIATES.—

"(1) TRANSFER OF NEW SECURITIES ACTIVITIES OUT OF DEPOSITORY INSTITUTION.—Any financial services holding company that controls or acquires control of a securities affiliate shall not, after the end of the 1-year period beginning on the date of the acquisition, permit any insured depository institution subsidiary of such holding company to engage, directly or indirectly, in the United States in activities described in any subparagraph of subsection (c)(15) except to the extent that such activities—

"(A) are specifically authorized by statute for a national bank or authorized by a regulation prescribed or an order, interpretation, or approval issued by the Comptroller of the Currency pursuant to that statute before the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991; and

"(B) do not involve the underwriting or distributing by any national bank of securities backed by or representing an interest in mortgages or other assets originated or purchased by the national bank or any affiliate of the bank.

"(2) SECURITIES ACTIVITIES INVOLVING STATE OR MUNICIPAL OBLIGATIONS.—Notwithstanding paragraph (1), a financial services holding company which controls or acquires control of a securities affiliate shall—

"(A) not permit, after the end of the 1-year period beginning on the date of the acquisition, an insured depository institution subsidiary of such company to underwrite or deal in obligations issued by any State or any political subdivision of any State; and

"(B) permit the activities described in subparagraph (A) to be conducted only by a securities affiliate in accordance with subsection (c)(15).

"(3) BROKER-DEALER ACTIVITIES.—Notwithstanding paragraph (1), effective January 1, 1993, a financial services holding company which controls or acquires control of a securities affiliate shall not permit an insured depository institution subsidiary of such company to operate as a broker or dealer that is required to register under the Securities Exchange Act of 1934.

"(4) CERTAIN INVESTMENT COMPANY SECURITIES.—Notwithstanding paragraph (1), effective January 1, 1993, a financial services holding company which controls or acquires control of a securities affiliate shall not permit an insured depository institution subsidiary of such company to sponsor, organize, promote, or control, or to underwrite the securities, shares, or units of participation issued by, a registered investment company containing assets described in section 408 of the Internal Revenue Code (26 U.S.C. 408).

"(5) AGENCIES OF FOREIGN BANKS SUBJECT TO THIS SUBSECTION.—For purposes of this section, a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank (as the terms 'branch', 'agency', and 'commercial lending company' are defined in section 1 of the International Banking Act of 1978) shall be treated as a bank.

"(k) NOTICE PROCEDURES FOR NONBANKING ACTIVITIES.—

"(1) GENERAL NOTICE PROCEDURE.—

"(A) NOTICE REQUIREMENT.—No financial services holding company may engage in any nonbanking activity or acquire or retain ownership or control of the shares of a company engaged in qualified financial activities without providing the Board with written notice of the proposed transaction or activity at least 45 days before the transaction or activity is proposed to occur or commence.

"(B) CONTENTS OF NOTICE.—The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice.

"(C) PROCEDURE FOR AGENCY ACTION.—

"(i) NOTICE OF DISAPPROVAL.—Any notice filed under this subsection shall be deemed to be approved by the Board unless, before the end of the 45-day period beginning on the date the Board receives a complete notice under subparagraph (A), the Board issues an order disapproving the transaction or activity and setting forth the reasons for disapproval.

"(ii) EXTENSION OF PERIOD.—The Board may extend the 45-day period referred to in clause (i) for an additional 45 days.

"(D) APPROVAL BEFORE END OF PERIOD.—

"(i) IN GENERAL.—Any transaction or activity may commence before the expiration of

any period for disapproval established under this paragraph if the Board issues a written notice of approval.

"(ii) SHORTER PERIODS BY REGULATION.—The Board may prescribe regulations which provide for no notice under this paragraph or for a shorter notice period with respect to particular activities or transactions, except that the Board may not provide for no notice with respect to activities or transactions described in subsection (c)(15).

"(E) EXTENSION OF PERIOD.—In the case of any notice to engage in, or to acquire or retain ownership or control of shares of any company engaged in, any activity pursuant to subsection (c)(8) that has not been previously approved by order or regulation, the Board may extend the notice period under this subsection for an additional 90 days.

"(2) GENERAL STANDARDS FOR REVIEW.—

"(A) CRITERIA.—In connection with a notice under this subsection, the Board may consider the following criteria:

"(i) The managerial resources of the companies involved.

"(ii) The adequacy of the companies financial resources, including capital, giving consideration to the financial resources and capital of others engaged in similar activities.

"(iii) Any material adverse effect on the safety and soundness or financial condition of any insured depository institution affiliate.

"(iv) Whether, in the case of notice for approval involving activities under subsection (c)(8) or (c)(15), performance of the activity by a financial services holding company or a subsidiary of such company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

"(B) REQUIREMENTS FOR DISAPPROVAL.—The Board shall not approve any proposed transaction under this subsection if the Board determines that any insured depository institution subsidiary of the financial services holding company is engaging in any unsafe and unsound practice or is in an unsafe and unsound condition.

"(l) ADDITIONAL CAPITAL REQUIREMENTS FOR NEW FINANCIAL ACTIVITIES.—The Board shall disapprove a notice to engage in, or acquire or retain the shares of a company engaged in, a new financial activity unless the company filing the notice is a level 1 financial services holding company.

"(m) MAINTENANCE OF HIGHER CAPITAL.—

"(1) CAPITAL MUST BE PROMPTLY RESTORED.—Any financial services holding company that engages, directly or through any subsidiary, in any new financial activity, and that ceases to qualify as a level 1 financial services holding company, shall before the end of the 60-day period beginning on the date such company ceases to qualify as a level 1 financial services holding company—

"(A) restore the capital of insured depository institution subsidiaries of such company in an amount sufficient for such company to requalify as a level 1 financial services holding company; or

"(B) submit a capital plan to the Board that will restore the relevant capital measures to the level necessary to requalify as a level 1 financial services holding company.

"(2) FAILURE TO RESTORE CAPITAL OR IMPLEMENT A CAPITAL PLAN.—If a holding company described in paragraph (1) fails to take the actions described in subparagraphs (A) or (B) of paragraph (1) or if the capital plan submitted under paragraph (1) is not approved by the Board or if the company fails to implement the capital plan, the holding company shall—

"(A) divest any interest in all insured depository institution subsidiaries that do not meet all currently applicable capital standards; or

"(B) terminate all new financial activities and divest any interest in any subsidiary engaged in any such activity.

"(3) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(A) IN GENERAL.—The Board shall prescribe regulations to carry out the requirements of this section, including the establishment of capital standards and minimum capital requirements for financial services holding companies and deadlines for submission and review of plans.

"(B) DEADLINE FOR REGULATIONS.—The Board shall, after notice and opportunity for comment, prescribe final regulations under subparagraph (A) which regulations shall be final not later than January 1, 1993.

"(C) COORDINATION WITH THE FEDERAL DEPOSIT INSURANCE ACT.—The Board and the appropriate Federal banking agencies shall coordinate the application of this subsection with the provisions of sections 5(e) and 38 of the Federal Deposit Insurance Act.

"(4) NOTICE TO OTHER FUNCTIONAL REGULATORS.—Before any holding company is required, pursuant to paragraph (2) of this subsection, to divest any interest in, or terminate any activities of, a company that is required to register with the Securities and Exchange Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the Board shall provide timely notice to the Securities and Exchange Commission and, in the case of any other company which is subject to any financial responsibility or capital requirements, any functional regulator of such company.

"(n) LIMITATIONS ON ACTIVITIES OF FINANCIAL SERVICES HOLDING COMPANIES.—

"(1) CONSUMER PROTECTION PROVISIONS.—

"(A) DISCLOSURE BY INSURED DEPOSITORY INSTITUTION WITH RESPECT TO SECURITIES ACTIVITIES OF AFFILIATE.—No insured depository institution controlled by a financial services holding company, and no subsidiary of such insured depository institution, shall offer to any customer an opinion on the value of, or the advisability of purchasing or selling, any security or other product or service of which a securities affiliate of such financial services holding company is an underwriter or which such securities affiliate sells, or offers for sale, or in which such securities affiliate makes a market, unless the insured depository institution or subsidiary provides a 1-time written notice to the customer in accordance with such requirements as the Board may, in consultation with the Securities and Exchange Commission, prescribe by regulation, stating—

"(i) that the securities affiliate is an affiliate of the insured depository institution or subsidiary;

"(ii) that the securities affiliate—

"(I) is not an insured depository institution; and

"(II) is a separate corporate entity with respect to any insured depository institution (or any subsidiary of such institution) which is an affiliate of such securities affiliate;

"(iii) that the securities or other products or services underwritten, sold, offered, or recommended by the securities affiliate—

"(I) are not deposits which are federally insured by the Federal Deposit Insurance Corporation;

"(II) are not instruments which are guaranteed as to either principal or interest by an insured depository institution affiliate of such subsidiary; and

"(III) are not otherwise obligations of any insured depository institution; and

"(iv) if applicable, that the securities affiliate underwrote or makes a market in the securities.

"(B) CUSTOMER ACKNOWLEDGMENT OF DISCLOSURE.—

"(i) IN GENERAL.—Whenever any insured depository institution or subsidiary of an insured depository institution is required under subparagraph (A), to make disclosures to a customer, such insured depository institution, or subsidiary, or affiliate, as the case may be, shall obtain a written acknowledgment of receipt by the customer of such disclosures, including the date of receipt and the customer's name, address, and account number.

"(ii) SPECIAL RULE FOR ACCREDITED INVESTORS.—In the case of any customer who is, or meets the requirements for, an accredited investor (as defined in section 2(15) of the Securities Act of 1933)—

"(I) the acknowledgment of the receipt of any disclosure described in clause (i) shall be obtained pursuant to such clause by the insured depository institution or securities affiliate referred to in such clause at the time any account is opened by such customer; and

"(II) the institution or the securities affiliate shall not be required to obtain such an acknowledgment from such customer pursuant to clause (i) in connection with any subsequent transaction with respect to such account.

"(C) DISCLOSURES OF CONFIDENTIAL CUSTOMER INFORMATION PROHIBITED.—

"(i) IN GENERAL.—No insured depository institution subsidiary of a financial services holding company may disclose, directly or indirectly, any confidential customer information to any person (as defined in section 1 of title 1, United States Code), including any other affiliate, without the prior written consent of the customer. For purposes of this subparagraph, the term 'affiliate' includes a separately identifiable department or division of an insured depository institution that is registered as an investment adviser pursuant to the Investment Advisers Act of 1940.

"(ii) RECORDS OF CUSTOMER CONSENT.—Whenever any insured depository institution obtains the prior written consent of a customer for purposes of clause (i), such company shall—

"(I) obtain an acknowledgment of such consent by the customer, including the date the consent was acknowledged and the customer's name, address, and any applicable account number;

"(II) obtain such consent separately from any other authorization or consent of the customer;

"(III) inform the customer that the consent is not required as a condition for the performance of services for the customer; and

"(IV) maintain records of compliance with subclauses (I), (II), and (III).

"(iii) CUSTOMER DEFINED.—

"(I) IN GENERAL.—For purposes of this subparagraph, the term 'customer' means any person who, after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, establishes a deposit, trust, or credit relationship with an

insured depository institution or purchases any service or financial product from such institution.

"(II) TREATMENT OF CERTAIN DEPOSITS.—Any renewal of an account in an insured depository institution and any rollover of a deposit in any such account shall be treated as the establishment of a new deposit relationship for purposes of subclause (I).

"(D) CONFIDENTIAL CUSTOMER INFORMATION DEFINED.—For purposes of subparagraph (C), the term 'confidential customer information' means financial information regarding any specific individual which has been derived from any record of any insured depository institution and pertains to the individual's relationship with the institution.

"(E) CERTAIN INFORMATION NOT INCLUDED IN DEFINITION.—Notwithstanding subparagraphs (C) and (D), the term 'confidential customer information' shall not include—

"(i) any information obtainable from an unaffiliated credit bureau or similar entity or information obtainable in the ordinary course of business from any other unaffiliated entity;

"(ii) any information provided to any credit bureau or similar entity in the ordinary course of business;

"(iii) any information obtainable in connection with insurance—

"(I) which is limited to assuring the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(II) on real or personal property obtained by or on behalf of an insured depository institution in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(III) to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit;

"(iv) any information provided—

"(I) to any appropriate Federal regulatory agency; or

"(II) in accordance with the Right to Financial Privacy Act of 1978 to any Government authority (as defined in section 1101(3) of such Act); and

"(v) financial information the use of which (by an insured depository institution, any affiliate of such institution, or any agent of or contractor with such institution or affiliate) is limited to the performance of—

"(I) any function which is necessary to maintain a customer's existing deposit, trust, or credit account with the institution, including the collection of any amount due the institution by the customer with respect to any such account; or

"(II) due diligence evaluations in connection with the purchase or sale of loan assets or servicing rights.

"(F) DISCLOSURE OF CUSTOMER INFORMATION.—In addition to any requirement or limitation contained in this section, the Board may prescribe regulations limiting disclosures of nonpublic customer information from any insured depository institution to any affiliate of such institution, including an evaluation of the creditworthiness of an issuer or other customer of that insured depository institution or any subsidiary or financial or insurance affiliate of such institution.

"(2) CUSTOMER'S SIGNED STATEMENT RELATING TO UNINSURED DEPOSITS.—

"(A) IN GENERAL.—In addition to any disclosure required under paragraph (1), in connection with—

"(i) any sale of any instrument or financial product by any insured depository institution, or any affiliate of such institution, that does not constitute an insured deposit;

"(ii) any acceptance of a deposit by such institution or affiliate that is not an insured deposit; or

"(iii) any other transaction which results in the acquisition of any such obligation, instrument, or product from the institution or affiliate,

the institution or affiliate shall obtain from the purchaser, depositor, or acquirer, before the completion of the sale, deposit, or transaction, a separate statement, signed and dated by such person, which contains the following declaration in not less than 18-point bold-face type: 'I understand that this is not an insured deposit. The United States Government does not guarantee it. If [*name of institution or affiliate*] fails, I know that I may lose some or all of my money.'.

"(B) EXCEPTION.—The provisions of this paragraph shall not apply with respect to any transaction—

"(i) effected by a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) involving an insurance activity of any affiliate of an insured depository institution which is not itself an insured depository institution or a subsidiary of such institution if the transaction—

"(I) is not engaged in on the premises of any insured depository institution (including any branch) or any subsidiary of such institution;

"(II) is not engaged in by the affiliate in connection with any joint marketing activities between the affiliate and any such institution or subsidiary; and

"(III) does not otherwise involve any such insured depository institution or subsidiary; or

"(iii) consisting of any loan or other extension of credit by the insured depository institution or affiliate.

"(3) REGULATIONS RELATING TO MISLEADING AND DECEPTIVE PRACTICES.—The appropriate Federal banking agencies shall prescribe regulations jointly to prohibit any insured depository institution from employing any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that the institution or the Federal Government is responsible for the activities of an affiliate of the institution, stands behind the affiliate's credit, guarantees any returns on securities or insurance products sold by the affiliate, or is a source of payment of any obligation of or sold by the affiliate.

"(4) REQUIREMENTS APPLICABLE IN THE CASE OF FINANCIAL SERVICES HOLDING COMPANIES WITH SECURITIES AFFILIATES.—

"(A) CERTAIN FINANCIAL TRANSACTIONS OF INSURED DEPOSITORY INSTITUTIONS PROHIBITED.—Notwithstanding any provision of subparagraph (E), no insured depository institution subsidiary of a financial services holding company may directly or indirectly engage in any of the following with respect to its securities affiliate:

"(i) Except as provided in subparagraph (C), extend credit to such securities affiliate.

"(ii) Issue a guaranty, acceptance, or letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to or for the benefit of such securities affiliate.

"(iii) Purchase for the insured depository institution's own account, or for the account of any subsidiary of the institution, any financial asset of such securities affiliate that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(iv) Purchase for the insured depository institution's own account, or for the account of any subsidiary of the institution, any security (other than securities issued by an open-end investment company or a unit investment trust) of which such securities affiliate is an underwriter or a member of the selling group, or which such securities affiliate otherwise places, until—

"(I) in the case of an underwriting, 60 days after the end of the underwriting period; or

"(II) in the case of a placement, 60 days after completion of the placement.

"(v) Purchase for a customer account in which the insured depository institution or its subsidiary, acting as fiduciary, is authorized to determine the securities to be purchased or sold, any security (other than securities issued by an open-end investment company or a unit investment trust) of which such securities affiliate is an underwriter or a member of the selling group or which such securities affiliate otherwise places until—

"(I) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(II) in the case of a placement, 90 days after completion of the placement.

The provisions of this clause (v) apply whether or not such purchase is authorized by any trust agreement or any other instrument authorizing the insured depository institution or subsidiary to act in such capacity, unless such purchase is permitted by State law, is explicitly authorized in the trust agreement or other instrument establishing the fiduciary relationship, and is effectuated by endorsement by the creator of the trust of a separate document that discloses (in accordance with regulations prescribed by the Board) any conflict of interest that an insured depository institution may have in making such purchase. Notwithstanding any provision of Federal or State law, if the creator of any trust agreement or other instrument referred to in the preceding sentence is incapable of providing the authorization or effectuating an endorsement referred to in such sentence, every beneficiary of such trust or instrument shall provide such authorization or effectuate such endorsement.

"(vi) Extend credit to any investment company which is sponsored, organized, controlled, promoted, or advised by such securities affiliate or the depository institution (including a separately identifiable department or division thereof) or any subsidiary of such institution, except as permitted by regulations prescribed by the Commission pursuant to section 18(f)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)(3)).

"(vii) Extend credit, or arrange for the extension of credit, or issue a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to an issuer of securities for which the securities affiliate is underwriting or placing any security for the purpose of paying, in whole or in part, the principal of, or any interest or dividends on, those securities.

"(viii) Extend credit to a customer of a securities affiliate for the purpose of repaying, in whole or in part, credit extended to such customer by the securities affiliate.

"(ix) Except as provided in subparagraph (G), extend credit, arrange for the extension

of credit, or issue a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to or for the benefit of the issuer of any security of which such securities affiliate is an underwriter or a member of the selling group, or which the securities affiliate otherwise places, until—

"(I) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(II) in the case of a placement, 90 days after completion of the placement.

"(x) Except as provided in subparagraph (F), sell any financial asset of the depository institution or a subsidiary thereof to such securities affiliate that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(B) CERTAIN FINANCIAL TRANSACTIONS OF HOLDING COMPANIES AND SUBSIDIARIES DURING DISTRIBUTIONS PROHIBITED.—No financial services holding company and no subsidiary of a financial services holding company (other than a securities affiliate) may, directly or indirectly, extend credit or arrange for the extension of credit to any person, if such credit is secured by, or is used to purchase, any security that is the subject of a distribution or placement in which a securities affiliate of such financial services holding company participates as an underwriter or member of the selling group or which the securities affiliate otherwise places (other than securities issued by an open-end investment company or unit investment trust or securities of the United States or any agency of the United States or securities on which principal and interest are fully guaranteed by the United States or any such agency) until 30 days after the end of the period in which such security is the subject of such distribution or placement.

"(C) EXCEPTION FOR INTRADAY EXTENSIONS OF CREDIT IN CONNECTION WITH CLEARING GOVERNMENT SECURITIES.—Subparagraph (A)(i) shall not apply with respect to any extension of credit which is made for the purchase or sale of any securities of the United States or any agency of the United States or any securities on which the principal and interest are fully guaranteed by the United States or any such agency, if—

"(i) the extension of credit is to be repaid on the same calendar day;

"(ii) the extension of credit is incidental to the clearing of transactions in those securities through such institution or any subsidiary; and

"(iii) both the principal of, and the interest on, the extension of credit are fully secured, on a market value basis, by securities of the United States or any agency of the United States or securities on which the principal and interest are fully guaranteed by the United States or any such agency.

"(D) PROHIBITIONS ON DISCRIMINATORY CREDIT TREATMENT.—

"(i) IN GENERAL.—No insured depository institution subsidiary of a financial services holding company shall—

"(I) extend or deny credit or services (including clearing services), or vary the terms or conditions thereof, if the effect of such action would be to treat an unaffiliated entity less favorably than any of such institution's affiliates, unless the extension of credit or denial is based on objective criteria and is consistent with sound business practices; or

"(II) extend or deny credit or services or vary the terms or conditions for any such credit or services with the intent of creating a competitive advantage for any of the institution's affiliates.

"(ii) MONITORING OF CLEARING SERVICES REQUIRED.—The Board shall monitor, on at least an annual basis, the availability of United States Government securities clearing services to companies that are brokers and dealers registered under the Securities Exchange Act of 1934 and not affiliated with an insured depository institution, and the price, terms, and conditions of such services.

"(iii) REQUIREMENTS IF CLEARING SERVICES BECOME UNAVAILABLE.—If the Board determines that the services described in clause (ii) have, or are likely to become, unavailable, or are available at prices, terms, or conditions that do not generally permit brokers and dealers that are not affiliated with an insured depository institution a reasonable opportunity to compete in the United States Government securities market, the Board shall—

"(I) require insured depository institutions to offer such services at reasonable prices, terms, and conditions to unaffiliated registered brokers and dealers;

"(II) provide such companies direct access to the wire transfer system for the purpose of clearing these securities under terms and conditions that protect the Reserve Bank from loss associated with the clearing credit;

"(III) take such other action as the Board determines to be appropriate to permit registered brokers and dealers that are not affiliated with an insured depository institution to obtain clearing services at reasonable prices, terms, and conditions; or

"(IV) propose legislation to the Congress to prevent or remedy the unavailability of such services.

"(E) REVIEW OF INTRAHOLDING COMPANY TRANSFERS.—

"(i) NOTICE REQUIRED.—No financial services holding company and, subject to subparagraph (A), no subsidiary of a financial services holding company (other than a securities affiliate) may extend credit (not otherwise prohibited under this Act) to, transfer financial assets to, or make an equity investment in, any securities affiliate without prior notice to the Board in accordance with regulations prescribed by the Board.

"(ii) PROHIBITION ON CERTAIN TRANSACTIONS.—The Board may prohibit any transaction described in clause (i) if the Board determines that such transaction would affect the financial resources of the financial services holding company to such an extent that the transaction would be likely to significantly impair or diminish the ability of the financial services holding company to take any action necessary to comply with any capital, financial, or regulatory requirement applicable to any insured depository institution subsidiary of such company.

"(iii) EQUITY INVESTMENTS PROHIBITED.—Notwithstanding any other provision of law, no insured depository institution may make an equity investment in its securities affiliate.

"(F) ASSET PURCHASES FROM AFFILIATED BANK, INSURED INSTITUTION, OR SUBSIDIARY THEREOF.—

"(i) IN GENERAL.—An insured depository institution may, notwithstanding subparagraph (A)(x) of this paragraph but subject to section 23B of the Federal Reserve Act, sell any asset of such institution or any subsidiary of such institution for the purpose of including such asset in a pool of assets for the purpose of issuing asset-backed securities if—

"(I) those securities are rated as investment grade by at least 1 unaffiliated, nationally recognized statistical rating organization;

"(II) those securities are issued or guaranteed by a government sponsored enterprise which the Board has determined by regulation to be permissible for purposes of this subclause;

"(III) those securities represent interests in securities described in subclause (II) of this clause;

"(IV) the price at which an equity security or the yield at which a debt security to be distributed to the public by the securities affiliate is established at a price no higher, or yield no lower, than that recommended by a qualified independent underwriter which has also participated in the preparation of the registration statement and the prospectus, offering circular, or similar document; or

"(V) those securities would not be the subject of a public offering and would be sold only to accredited investors, as defined in the Securities Act of 1933.

"(ii) REGULATIONS.—The Board, after consultation with the Commission, shall prescribe such regulations as may be necessary to ensure that transactions described in clause (i) comply with the requirements of this subparagraph.

"(iii) ASSET DEFINED.—For purposes of this subparagraph, the term 'asset' means any note, draft, acceptance, loan, lease, receivable, other obligation, or pools of any such obligations.

"(iv) QUALIFIED INDEPENDENT UNDERWRITER.—For purposes of this subparagraph, the term 'qualified independent underwriter' shall be defined by regulation prescribed by the Securities and Exchange Commission.

"(G) EXCEPTIONS TO CREDIT FACILITY LIMITATIONS.—

"(i) TIMING WINDOW AND PROCEDURAL COMPLIANCE EXCEPTIONS.—Notwithstanding subparagraph (A)(ix), an insured depository institution may provide a credit facility described in such subparagraph to an issuer described in such subparagraph if—

"(I) the credit facility was entered into at least 60 days before the commencement of the underwriting or placement, unless such credit facility had been entered into in anticipation of such underwriting or placement;

"(II) the credit facility is a renewal or extension, on the same or substantially the same terms and conditions, of a credit facility entered into by the institution with the same issuer not less than 2 years before the beginning of such 60-day period, and the securities affiliate of the insured depository institution is not a significant participant in the underwriting or placement (as such term is defined by rule or regulation of the Commission); or

"(III) the credit facility is extended in accordance with the requirements of clauses (ii) and (iii) of this subparagraph (G) and the depository institution and holding company are in compliance with clauses (iv), (v), and (vi) of this subparagraph.

"(ii) REGULATIONS TO PREVENT UNFAIR OR COERCIVE PRACTICES AND SUBSIDIES.—A credit facility complies with the requirements of this clause if the credit facility is in compliance with such regulations as the Board shall prescribe, after consultation with the Commission—

"(I) to prevent any insured depository institution from engaging in any coercive or unfair practice to induce any person to use the underwriting, distributing, or placing services of a securities affiliate; and

"(II) to prevent any insured depository institution from subsidizing the terms of the

credit facility as an inducement to any person to use such services, or conditioning the provision of such credit facility on the use of such services.

"(iii) ARM'S LENGTH; NONDISCRIMINATION; APPROVAL BY MANAGEMENT..—A credit facility complies with the requirements of this clause if—

"(I) the insured depository institution determines the terms and conditions of such credit facility objectively on the basis of the same credit standards that the insured depository institution applies to extensions of credit facilities to a similarly-situated borrower whose securities are not underwritten or placed by any securities affiliate of the insured depository institution;

"(II) the terms and conditions of such credit facility (including credit standards, prices, maturities, interest rates, collateral, and amounts) do not discriminate in favor of an issuer described in subparagraph (A)(viii) and would, in good faith, be offered to, or would apply to, a similarly-situated borrower whose securities are not underwritten or placed by any securities affiliate of the insured depository institution;

"(III) senior management and, in the case of a significant credit facility, executive management, of the insured depository institution has approved, in writing, the specific terms and conditions of the credit facility; and

"(IV) if the insured depository institution is a significant participant in a credit facility that is extended during the period covered by subparagraph (A)(viii), or during the 60-day period preceding the commencement of the underwriting or placement, and a securities affiliate is a significant participant in the underwriting or placement (as such term is defined by rule or regulation of the Commission), the securities affiliate and the issuer certify to the Commission, in accordance with regulations prescribed by the Commission, that the issuer has not been subjected, as an inducement to such issuer's election to use the underwriting or placement services of such securities affiliate, to any coercive or unfair practice or conditioning of such facility in violation of the regulations prescribed by the Board under clause (ii) of this subparagraph, and that such securities affiliate and the issuer, respectively, do not know that the issuer obtained any subsidy on any such facility in violation of the regulations prescribed by the Board under such clause.

"(iv) MANAGEMENT PROCEDURES REQUIRED.—The board of directors of any financial services holding company that has a securities affiliate shall establish policies and procedures to ensure that the insured depository institution is aware when a credit facility would fall within the proscriptive time periods established by subparagraph (A)(viii).

"(v) REPORTS AND RECORDS CONCERNING CREDIT FACILITIES.—Each insured depository institution and each securities affiliate controlled by the financial services holding company shall maintain segregated records of all such credit facilities and related transactions in accordance with such regulations concerning format and other matters as the Board shall prescribe in consultation with the Commission. Such regulations shall be reasonably designed to require the insured depository institution and securities affiliate to maintain such records as are necessary to demonstrate, and to facilitate the determination by the Board and the Commission of, compliance with the requirements of this subparagraph (G). An insured depository institution shall provide to the Board and the Commission—

"(I) prompt notice concerning each significant credit facility subject to this subparagraph;

"(II) an annual report of all such credit facilities (together with the date, amount, and material terms) within 90 days following the end of the institution's fiscal year; and

"(III) such additional information as the Board or the Commission may request concerning any such credit facility.

Notwithstanding any other provision of law, neither the Board nor the Commission shall be compelled to disclose any information required to be kept or reported under this clause (v). Nothing in this clause shall authorize the Board or the Commission to withhold information from Congress, or to prevent the Board or the Commission from complying with a request for information from any other Federal department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the Board or the Commission. For purposes of section 552 of title 5, United States Code, this clause shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(vi) REVIEW BY BOARD OF DIRECTORS.—The board of directors of each financial services holding company controlling a securities affiliate and the board or directors of each insured depository institution subsidiary of such a holding company shall—

"(I) review, no less frequently than annually, the holding company's procedures for compliance with the conditions of this subparagraph (G) for their continued appropriateness;

"(II) determine, no less frequently than quarterly, that all significant credit facilities entered into by the insured depository institution which are made in reliance on the provisions of clause (i)(II) of this subparagraph (G) were effected in compliance with such provisions; and

"(III) promptly notify the Board and the Commission of any transactions that are not in compliance with the conditions of this subparagraph (G).

"(vii) REGULATIONS.—The Board shall have the authority, in consultation with the Commission, to make such regulations as may be necessary or appropriate to implement the provisions of this subparagraph and may define the terms used herein, including (without limitation) the terms 'senior management', 'executive management', 'significant credit facility', and 'significant participant in a credit facility'. If the Commission comments in writing on a proposed regulation of the Board under this subparagraph (G) that has been published for comment, the Board shall respond in writing to such written comment before adopting such regulation. The Board shall, at the request of the Commission, publish such comment and response in the Federal Register at the time of publishing the adopted regulation. The Board and the Commission shall prescribe regulations under this subparagraph not later than October 1, 1992.

"(viii) DEFINITIONS.—As used in this subparagraph, the term 'credit facility' means an extension of credit, arrangement for the extension of credit, or issuance of a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit.

"(H) DEFINITIONS.—For purposes of this paragraph the term 'insured depository institution' includes any subsidiary of the insured depository institution, other than an entity required to register with the Commission.

"(5) PROHIBITION ON RECIPROCAL ARRANGEMENTS WITHIN THE HOLDING COMPANY.—No affiliate of a financial services holding company shall engage in any transaction or reciprocal arrangement for the purpose of evading any restriction or limitation imposed under this section.

"(6) INTERLOCKING DIRECTORS, MANAGEMENT OFFICIALS, AND EMPLOYEES PROHIBITED.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no financial services holding company may allow any director, management official, or employee of any securities affiliate controlled by such financial services holding company to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of such holding company or any subsidiary of any such institution.

"(B) BOARD AUTHORITY TO EXEMPT FROM SUBPARAGRAPH (A).—

"(i) IN GENERAL.—The Board may, by order or regulation issued after consultation with the Commission, grant exemptions from subparagraph (A) of this subsection.

"(ii) FACTORS TO BE CONSIDERED.—In determining whether to grant an exemption under clause (i), the Board shall consider—

"(I) the size of the financial services holding companies involved and the size of the depository institution subsidiaries and securities affiliate involved;

"(II) any burdens imposed by the application of subparagraph (A);

"(III) the safety and soundness of the depository institution subsidiaries and the securities affiliates of such financial services holding companies; and

"(IV) other appropriate factors, including unfair competition in securities activities and the improper exchange of confidential customer information.

"(iii) EXCEPTION FOR CERTAIN SMALL FINANCIAL SERVICES HOLDING COMPANIES.—

"(I) IN GENERAL.—The Board shall grant, by regulation, an exemption under clause (i) to allow a director, management official, or employee of any securities affiliate subsidiary of any financial services holding company the total banking assets of which do not exceed $500,000,000 to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of the company, or any subsidiary of such institution.

"(II) ANNUAL ADJUSTMENT FOR INFLATION.—The dollar amount of assets referred to in subparagraph (B)(i) shall be adjusted for inflation by the Board at the end of each calendar year beginning after December 31, 1991.

"(C) EXCEPTION FOR CERTAIN BACK OFFICE OPERATIONS.—Subparagraph (A) shall not apply to any employee, other than an officer or director, employed by the financial services holding company or any subsidiary of such company to perform clerical, accounting, bookkeeping, statistical, or similar functions, including the receipt or transmittal of electronic transfers, if such functions are performed—

"(i) in an office or other facility which is not open to the general public; and

"(ii) in a manner which is consistent with the requirements of this section as determined by the Board after consultation with the Commission.

"(D) MANAGEMENT OFFICIAL DEFINED.—The term 'management official' includes any officer and any employee with management

functions (including a branch manager), any trustee of a business organization under the control of trustees (such as a mutual savings bank), and any person who has a representative or nominee serving in any such capacity.

"(7) PROHIBITION ON FAVORING CAPTIVE AGENTS.—

"(A) IN GENERAL.—An insured depository institution subsidiary of a financial services holding company may not, directly or indirectly—

"(i) require, as a condition to the sale of any product or the provision of any service, that a customer acquire or renew insurance through a particular insurance agent or broker;

"(ii) solicit the sale of insurance that is required under any loan or extension of credit unless the customer has been advised, in writing, of the antitying provisions of section 106 of the Bank Holding Company Act Amendments of 1970;

"(iii) solicit or permit any subsidiary, or any department or agent of such institution or subsidiary, which engages in any insurance activity to solicit, directly or indirectly, any customer of such institution or subsidiary to provide any insurance required under the terms of any loan or extension of credit (to such customer by such institution or subsidiary) before such customer has received a written commitment from such institution or subsidiary with respect to such loan or other extension of credit;

"(iv) in connection with a loan or extension of credit that requires a borrower to obtain insurance, reject an insurance policy solely because such policy has been issued or underwritten by any person who is not an affiliate of such subsidiary;

"(v) unless otherwise authorized by any applicable Federal or State law, require any debtor, insurer, broker, or agent to pay a separate charge in connection with the handling of a contract that requires insurance; or

"(vi) impose any requirement on any insurance agent who is not affiliated with the insured depository institution subsidiary that is not imposed on any affiliate of such subsidiary.

"(B) INSURANCE DEFINED.—For purposes of this paragraph, the term 'insurance' does not include insurance placed on real or personal property by a creditor in the event a customer has failed to provide reasonable evidence of required insurance in accordance with the terms of a loan or credit instrument.

"(8) AUTHORITY TO MODIFY AND IMPOSE ADDITIONAL SAFEGUARDS.—

"(A) IN GENERAL.—In order to preserve the safety and soundness of insured depository institution subsidiaries of financial services holding companies, and to ensure that the activities of any financial service holding company and any subsidiary of any such company (other than an insured depository institution subsidiary) are conducted without the support of insured depository institution affiliates, the Board—

"(i) may, by regulation or order, adopt additional limitations or restrictions on any extension of credit or financial assistance or any transaction which has the effect of providing financial assistance by any insured depository institution subsidiary of any financial services holding company to, or for the benefit of, any affiliate of such institution which is engaged in any new financial activity or any customer of such affiliate; and

"(ii) after consulting with and considering the views of the Commission, may modify by regulation any limitation on the activities of financial services holding companies and their affiliates contained in this subsection.

"(B) STANDARDS.—Any authority under subparagraph (A)(i) shall be exercised only after taking into account potential adverse effects of any extension of credit or other transaction referred to in such subparagraph, including unfair competition, conflicts of interest, and unsafe banking practices. Any exercise of authority under subparagraph (A)(ii) to modify any limitation on activities contained in this subsection shall be exercised only if the Board, after consulting with and considering the views of the Commission, concludes that modifying such limitation is necessary to achieve a purpose of this Act, is consistent with the purposes of this section, the public interest, and the protection of investors, and would not be likely to result in any adverse effects, including unfair competition, conflicts of interest, unsafe banking practices, or undue risks to the Federal deposit insurance funds.

"(9) DIVESTITURE FOR CONTINUING COURSE OF MISCONDUCT.—

"(A) NOTICE OF PRELIMINARY DETERMINATION.—

"(i) PRELIMINARY FINDING.—In addition to any other regulatory and supervisory authority of the Board, if the Board has reason to believe that a financial services holding company which controls a securities affiliate, or any subsidiary of such financial services holding company, has engaged in a continuing course of conduct involving a violation of this subsection, or regulations prescribed or orders issued by the Board pursuant to this subsection, the Board may make an initial determination that the financial services holding company shall be required to terminate such company's control of either (I) the insured depository institutions or the subsidiaries of such insured depository institutions, or (II) the securities affiliates, at the election of such company.

"(ii) NOTICE.—The Board shall notify any financial services holding company with respect to which a preliminary determination is made under clause (i) of this subparagraph of such determination before the end of the 3-day period beginning on the date on which the determination is made.

"(iii) CONTENTS OF NOTICE.—Any notice under clause (ii) of this subparagraph shall contain a statement of the basis for the Board's determination.

"(B) HEARING AND FINAL ORDER.—

"(i) REQUEST FOR HEARING.—Any financial services holding company which receives a notice under subparagraph (A)(ii) of this paragraph may request, at any time before the end of the 30-day period beginning on the date of the receipt of such notice, a hearing before the Board.

"(ii) ADJUDICATORY PROCEDURE AND FINAL ORDERS.—Any proceeding under this paragraph shall be conducted in accordance with section 8(h) of the Federal Deposit Insurance Act.

"(C) FAILURE TO REQUEST REVIEW.—If any financial services holding company which receives a notice under subparagraph (A)(ii) of this paragraph fails to request an agency hearing under subparagraph (B)(i) of this paragraph, such financial services holding company shall be deemed to have consented to the issuance of a final order affirming the initial determination without the necessity of the hearing provided for in this subsection.

"(D) DIVESTMENT WITHIN TIME SPECIFIED IN ORDER.—If any order issued by the Board under this paragraph becomes final and the order affirms the initial determination of the Board under subparagraph (A)(i), the financial services holding company shall make the election and terminate control as required by such order by the end of the period specified in such order.

"(10) DEFINITION.—For purposes of this subsection (n), the term 'Commission' means the Securities and Exchange Commission.

"(o) EXCEPTION FOR CERTAIN NONBANKING INVESTMENTS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), a financial services holding company may own or control shares of any company engaged in activities not authorized pursuant to this section if—

"(A) the shares were acquired before September 30, 1991, the company on such date was an affiliate of an entity that is registered with the Securities and Exchange Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, and the aggregate investment in all such shares does not exceed 5 percent of the financial services holding company's capital and surplus on a consolidated basis; or

"(B) the shares are acquired and held by a securities affiliate as part of a bona fide underwriting or investment banking activity if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis consistent with the nature of such investment banking activity.

"(2) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—

"(A) PARAGRAPH (1)(A) EXEMPTION.—If the exemption established under paragraph (1)(A) ceases to apply to any financial services holding company, the company shall divest ownership and control of all of the shares of the company engaged in activities not authorized pursuant to this section within 180 days after the date on which such exemption ceases to apply.

"(B) PARAGRAPH (1)(B) EXEMPTION.—If the exemption established under paragraph (1)(B) ceases to apply to any financial services holding company, the company shall divest ownership and control of such shares within 15 days after the date on which such exemption ceases to apply.".

(b) CONFORMING AMENDMENTS.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843) (as amended by subsection (a)) is amended—

(1) by striking "bank holding company" each place such term appears and inserting "financial services holding company";

(2) in subsection (c)(1)(A), by striking "banking subsidiary" each place such term appears and inserting "insured depository institution subsidiary";

(3) in subparagraphs (C) and (D) of subsection (c)(1), by striking "banking subsidiaries" each place such term appears and inserting "insured depository institution subsidiaries"; and

(4) in subsection (c)(4), by striking "acquired by a bank" and inserting "acquired by an insured depository institution".

(c) RULE OF CONSTRUCTION RELATING TO SECTION 4(c)(8) AMENDMENTS.—The amendments made by section (a) with respect to the removal of subparagraphs (A) through (G) from section 4(c)(8) of the Bank Holding Company Act to section 4(i)(5) of the Financial Services Holding Company Act—

(1) may not be construed as making any substantive change in the meaning of any provision of any such subparagraph (as in effect on the day before the effective date of such amendments); and

(2) shall not affect any regulation prescribed, order issued, or any action taken be-

fore the effective date of such amendments pursuant to any such subparagraph (as in effect on the day before such date).

SEC. 404. REGISTRATION AND ENFORCEMENT.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended to read as follows:

"SEC. 5. REGISTRATION AND ENFORCEMENT.

"(a) REGISTRATION OF FINANCIAL SERVICES HOLDING COMPANY.—

"(1) FILING PERIOD.—Within 180 days after becoming a financial services holding company, each financial services holding company shall register with the Board on forms prescribed by the Board, which shall include such information with respect to the financial condition and operations, management, and intercompany relationships of the holding company and the subsidiaries of such company, and related matters, as the Board may determine to be appropriate to carry out the purposes of this Act.

"(2) EXTENSION OF FILING PERIOD.—The Board may, in the Board's discretion, extend the time within which a financial services holding company shall register and file the requisite information.

"(b) REGULATIONS AND ORDERS.—

"(1) IN GENERAL.—The Board may prescribe such regulations and issue such orders as may be necessary to enable the the Board to administer and carry out the purposes of this Act and prevent evasions of the Act.

"(2) IMPLEMENTING REGULATIONS.—The initial regulations which are necessary to implement this section after the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 shall be proposed and prescribed by the Board and shall be published in final form before January 1, 1993.

"(c) RECORDS AND REPORTS.—

"(1) REPORTS OF FINANCIAL SERVICES HOLDING COMPANY AND INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—The Board may require any financial services holding company and any insured depository institution subsidiary of such company to file reports under oath with the Board to keep the Board informed as to whether such holding company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

"(B) CONSULTATION.—With regard to any insured depository institution subsidiary of a financial services holding company, the Board shall consult with and, to the extent possible, use reports obtained by, any other appropriate Federal banking agency for such institution.

"(2) REPORTS OF FINANCIAL SERVICES HOLDING COMPANIES AND SUBSIDIARIES.—

"(A) IN GENERAL.—The Board may require a financial services holding company, and any subsidiary of such company (other than an insured depository institution), to file reports with the Board if the Board reasonably believes that the activities or financial condition of such holding company or subsidiary is likely to have a material impact on the financial or operational condition of any insured depository institution subsidiary of the company (or any subsidiary of the institution).

"(B) REGULATORY EFFICIENCY.— The Board shall consult with and, to the extent possible, use reports obtained by, any other functional regulator of any financial services holding company or subsidiary referred to in subparagraph (A) to obtain the necessary information. In the case of a subsidiary which is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the Board shall comply with paragraph (5).

"(3) RECIPROCAL ACCESS.—

"(A) FUNCTIONAL REGULATOR.—The Board may provide access, on a reciprocal basis, for any other functional regulator of any financial affiliate of a financial services holding company, to any report (other than a report of examination) obtained by the Board under this subsection with respect to any financial services holding company subsidiary (including any insured depository institution subsidiary of any such company), if the other functional regulator reasonably believes that the activities or financial condition of such insured depository institution or financial services holding company is likely to have a material impact on the financial or operational condition of the financial affiliate.

"(B) OTHER BANKING AGENCY.—The Board may provide access on a reciprocal basis for any other appropriate Federal banking agency for an insured depository institution to any report (other than a report of examination) obtained by the Board under this subsection with respect to any affiliate of the insured depository institution, if such agency believes that the activities or financial condition of such affiliate is likely to have a material impact on the insured depository institution.

"(4) INFORMATION COORDINATION BETWEEN THE BOARD AND THE SEC.—The Board and the Securities and Exchange Commission shall adopt procedures to coordinate and provide for the cooperative exchange of information regarding entities under their respective jurisdiction as may be necessary to effectuate their regulatory responsibilities under this Act and the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934). By January 1, 1993, the Board and the Securities and Exchange Commission shall report to Congress regarding the procedures adopted pursuant to this paragraph.

"(5) OBTAINING INFORMATION THROUGH SEC.—

"(A) BOARD REQUEST.—The Board may request the Commission to provide such information as may be reasonably necessary for the Board to conduct its supervisory responsibilities regarding an affiliate that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser.

"(B) COMMISSION RESPONSE.—In response to a request from the Board, the Commission shall use reasonable diligence to provide promptly to the Board such of the requested information regarding an affiliate referred to in subparagraph (A) as the Commission has available.

"(C) ADDITIONAL INFORMATION.—If the Board needs additional information regarding an affiliate referred to in subparagraph (A), the Board shall then request the Commission to obtain such information, through examinations or otherwise.

"(D) PROVISION OF ADDITIONAL INFORMATION.—In response to a request from the Board for additional information regarding an affiliate referred to in subparagraph (A), the Commission shall use reasonable diligence to obtain such information, including, if necessary, by conducting an examination of the affiliate, and shall promptly provide to the Board such of the requested information as it has obtained.

"(E) BOARD ACTION.—If the Commission does not comply with a request by the Board under this paragraph with respect to an affiliate referred to in subparagraph (A), the Board may obtain such information from the affiliate.

"(6) RESTRICTION ON DISCLOSURE.—Any reports obtained from the Board, any appropriate Federal banking agency, or other functional regulator under this subsection shall not be disclosed to the public by the recipient agency or other regulator and shall not be disclosed to any other governmental agency except as otherwise permitted by law. Reports obtained under this subsection may be used only to carry out the purposes of this subsection or as otherwise permitted by law.

"(d) EXAMINATIONS.—

"(1) GENERAL EXAMINATIONS.—

"(A) HOLDING COMPANIES.—The Board may conduct examinations, including on-site examinations, of any financial services holding company, any insured depository institution subsidiary of such holding company, any subsidiary of such insured depository institution, and any other subsidiary of such financial services holding company.

"(B) CONSULTATION WITH OTHER AGENCIES.—When appropriate, the Board shall, in conducting an examination consult with, and to the extent possible, use any report of examination made by any other appropriate Federal banking agency, any appropriate State bank supervisor, or any other functional regulator with respect to any holding company, affiliate, or subsidiary referred to in subparagraph (A).

"(C) COST OF EXAMINATIONS.—The cost of any examination under this paragraph of any financial services holding company and any subsidiary of such holding company shall be assessed against, and paid by, the financial services holding company.

"(D) NOTICE TO SEC.—Before beginning any examination of any broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the Board shall notify the Commission of the examination and the Commission may accompany the Board and conduct its own examination.

"(2) FIREWALL EXAMINATIONS.—

"(A) FIREWALL EXAMINING AUTHORITY.—The Commission and each firewall examining authority shall have the authority, for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934, to conduct examinations in accordance with this paragraph, including on-site examinations, of any financial services holding company, any insured depository institution subsidiary of such holding company, any subsidiary of such insured depository institution, and any other subsidiary of such financial services holding company.

"(B) COORDINATION OF EXAMINATIONS—

"(i) IN GENERAL.—In order to avoid unnecessary regulatory duplication and undue regulatory burdens, the Board and the Commission shall, to the maximum extent practicable, coordinate examinations conducted for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934.

"(ii) FACTORS TO BE CONSIDERED.—In coordinating examinations pursuant to clause (i), the Board and the Commission shall consider—

"(I) the establishment of procedures for the sharing and use of information;

"(II) the minimum scope and frequency of such examinations; and

"(III) such additional procedures as the Board and the Commission determine will fa-

cilitate the administration and enforcement of section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934.

"(iii) MINIMUM EXAMINATION REQUIREMENTS.—

"(I) HOLDING COMPANIES WITH SECURITIES AFFILIATES.—An examination of each financial services holding company that has an affiliate that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, each insured depository institution subsidiary of such company, and each subsidiary of such institution for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934 shall be conducted at least once during each 12-month period (beginning on the date on which the most recent examination of such company or subsidiary ended).

"(II) SECURITIES AFFILIATES.—An examination of each affiliate (of a holding campany described in subclause (I)) that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934 shall be conducted at least once each year by any general examining authority or firewall examining authority.

"(C) COOPERATION BETWEEN GENERAL EXAMINING AUTHORITY AND FIREWALL EXAMINING AUTHORITY.—The general examining authority with respect to any entity which is subject to section 4(n) of this Act or section 15D of the Securities Exchange Act of 1934 shall cooperate with each firewall examining authority for such entity to the maximum extent practicable with respect to the sharing and use of information and conducting examinations.

"(D) NOTICE OF SEPARATE FIREWALL EXAMS.—Whenever a firewall examining authority intends to conduct an examination of an entity for the purposes of determining compliance with section 4(n) of this Act or section 15D of the Securities Exchange Act of 1934, such firewall examining authority shall provide timely notice of such examination to each general examining authority for such entity and the general examining authority may accompany the firewall examining authority and conduct its own examination.

"(E) CONSULTATION WITH OTHER AGENCIES.—When appropriate, the firewall examining authority for any entity shall, in conducting an examination under subparagraph (A), consult with, and to the extent possible, use any reports or records of any general examining authority for such entity, any appropriate State bank supervisor, any State securities commission, or any other functional regulator.

"(F) COST OF EXAMINATIONS.—The cost of all or any part of any examination of any financial services holding company or any subsidiary of such holding company which is conducted by any firewall examining authority (with respect to such company or subsidiary) under this paragraph for the purposes of determining compliance with section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934 shall be assessed against, and paid by, any affiliate of such company or subsidiary for which such authority is the general examining authority.

"(3) PROMPT NOTICE OF RESULTS.—Each general examining authority shall promptly inform each firewall examining authority, and each firewall examining authority shall promptly inform each general examining authority, of the results of any examination concerning compliance with section 4(n) of this Act or section 15D of the Securities Exchange Act of 1934.

"(4) DEFINITIONS.—As used in this subsection—

"(A) with respect to a financial services holding company that has an affiliate that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser; an insured depository institution subsidiary of such a financial services holding company; or a subsidiary of such an insured depository institution—

"(i) the Board and each appropriate Federal banking agency is a 'general examining authority'; and

"(ii) the Commission, and each securities self-regulatory organization of which such affiliate is a member, is a 'firewall examining authority';

"(B) with respect to any affiliate of a financial services holding company that is registered with the Commission as a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser—

"(i) the Commission, the Board, and each securities self-regulatory organization of which such affiliate is a member, is a 'general examining authority'; and

"(ii) each appropriate Federal banking agency (other than the Board) is the 'firewall examining authority';

"(C) the term 'Commission' means the Securities and Exchange Commission; and

"(D) the term 'securities self-regulatory organization' means a national securities exchange registered under section 6 of the Securities Exchange Act of 1934 or a securities association registered under section 15A of such Act.

"(e) TRANSFER OF RECORDS.—No agency or department transferring records pursuant to this section shall be deemed to have waived any privilege applicable to those records under law.

"(f) CEASE AND DESIST AUTHORITY; TERMINATION OF ACTIVITIES OR OWNERSHIP OR CONTROL OF NONBANK SUBSIDIARIES CONSTITUTING SERIOUS RISK.—

"(1) IN GENERAL.—In addition to any other authority of the Board, the Board may take any action described in paragraph (2) if the Board has reasonable cause to believe that any financial services holding company or any subsidiary of a financial services holding company (other than an insured depository institution), is engaged in activities in such a manner as to constitute a serious risk to the financial safety, soundness, or stability of any insured depository institution affiliate.

"(2) ACTIONS AUTHORIZED UNDER PARAGRAPH (1).—

"(A) CEASE AND DESIST FROM FINANCIAL ACTIVITIES.—Subject to paragraph (1) and in addition to any authority of the Board under section 8 of the Federal Deposit Insurance Act, the Board may issue a notice and institute proceedings under section 8(b) of the Federal Deposit Insurance Act or issue a temporary order under section 8(c) of such Act requiring any company described in paragraph (1) that is engaged in qualified financial activities and that is not a registered broker or dealer affiliate to—

"(i) cease and desist from such activity; and

"(ii) take affirmative action to prevent significant dissipation of assets or earnings of an insured depository institution affiliate.

"(B) ORDER TO INCREASE CAPITAL.—Subject to paragraph (1) and in addition to any authority of the Board under section 8 of the Federal Deposit Insurance Act, the Board may issue a notice and institute proceedings under section 8(b) of the Federal Deposit Insurance Act or issue a temporary order under section 8(c) of such Act requiring any financial services holding company described in paragraph (1) to increase the capital of such company.

"(C) TERMINATION OF AFFILIATION.—

"(i) AUTHORITY TO ISSUE ORDER.—If any company described in paragraph (1) fails to comply with any order issued pursuant to subparagraph (A) or (B), the Board (after due notice and opportunity for hearing in accordance with section 8(h) of the Federal Deposit Insurance Act and after considering the views of the appropriate Federal banking agency for the insured depository institution subsidiary of such company and any appropriate State bank supervisor, in the case of a State depository institution) may order such company to terminate (within 120 days, or such longer period as the Board may direct in unusual circumstances) the ownership or control of either (I) the insured depository institution, or (II) any affiliate described in paragraph (1) (other than an insured depository institution), at the election of such holding company, by sale to any third party or by distribution of the shares of the affiliate to the shareholders of the financial services holding company.

"(ii) TERMINATION ORDERS FOR BROKER-DEALER AFFILIATES.—If the Board makes the finding described in paragraph (1) with respect to an affiliate that is a registered broker or dealer, the Board (after due notice and opportunity for a hearing in accordance with section 8(h) of the Federal Deposit Insurance Act and after considering the views of the Securities and Exchange Commission) may order the holding company to terminate the ownership or control of such broker or dealer in the same time periods and by the same methods as is required for an order under clause (i).

"(iii) PRO RATA DISTRIBUTION.—Any distribution of shares under clause (i) shall be made pro rata with respect to all of the shareholders of the distributing, and no financial services holding company may make any charge to its shareholders arising out of such a distribution.

"(3) ENFORCEMENT OF ORDERS.—The Board may apply to the United States district court within the jurisdiction of which the principal office of any financial services holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance with such order, but no court shall have jurisdiction to effect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order, except as provided in section 9.

"(g) ENFORCEMENT COORDINATION.—

"(1) ENFORCEMENT COORDINATION REQUIRED.—

"(A) IN GENERAL.—The Commission and the Board shall use reasonable efforts to coordinate enforcement proceedings involving financial services holding companies, insured depository institution affiliates, and securities affiliates for violations of the requirements of section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934.

"(B) NOTICE OF VIOLATION REQUIREMENT.—The Board and the Commission—

"(i) shall each inform the other of any violation or suspected violation of any requirement of section 4(n) of this Act and section 15D of the Securities Exchange Act of 1934; and

"(ii) may recommend such enforcement action with respect to any such violation as the Board or the Commission, as the case may be, determines to be appropriate.

"(C) PROCEEDINGS; COPIES OF ORDERS.—To facilitate the coordination of the enforcement proceedings referred to in subparagraph (A), the Commission shall file with the Board a notice before the commencement of any such proceeding and a copy of any order entered after such proceeding by the Commission for any such violation, and the Board shall file with the Commission a notice before the commencement of any such proceeding and a copy of any order entered after such proceeding by the Board for any such violation.

"(2) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to limit any authority of the Board or the Commission under any other law.

"(h) ADMINISTRATIVE PROVISIONS.—

"(1) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board or any member or designated representative of the Board, including any person designated to conduct any hearing under this Act, may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(2) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (1) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Subject to subparagraph (C)(ii), service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may provide.

"(C) SUBPOENAS ISSUED TO PERSONS WITHOUT THE UNITED STATES.—

"(i) BOARD APPROVAL REQUIRED.—A subpoena issued under paragraph (1) may be served on a person who is not to be found in the United States only if the subpoena has been issued by, or with the prior approval of, the Board.

"(ii) SERVICE OF SUBPOENA.—A subpoena issued under paragraph (1) may be served upon any person who is not found within the territorial jurisdiction of any court in the United States in such manner as the Federal Rules of Civil Procedure prescribe for service of process in a foreign country.

"(3) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board or any other party to proceedings in connection with which such subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(4) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(5) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

"(6) REGULATIONS.—The Board may prescribe regulations to carry out the purposes of this subsection.

"(i) REPORT TO THE CONGRESS; RECOMMENDATIONS.—

"(1) REPORT.—The Board's annual report to the Congress shall include the results of the administration of this Act.

"(2) DIFFICULTIES AND RECOMMENDATIONS.—The report under paragraph (1) shall include—

"(A) a description of any substantial difficulties which have been encountered in carrying out the purposes of this Act; and

"(B) such recommendations for legislative action as the Board may determine to be appropriate.

"(j) DEFINITIONS.—As used in this section—

"(1) the term 'registered securities affiliate' means a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser that is registered with the Commission and that is a subsidiary of a financial services holding company; and

"(2) the term 'Commission' means the Securities and Exchange Commission.".

SEC. 405. RESERVATION OF RIGHTS TO STATES; PREEMPTION OF ANTI-AFFILIATION PROVISIONS.

Section 7 of the Bank Holding Company Act of 1956 (12 U.S.C. 1846) is amended to read as follows:

"SEC. 7. RESERVATION OF RIGHTS TO STATES; ANTI-AFFILIATION PROVISIONS.

"(a) RESERVATION OF RIGHTS.—No provision of this Act shall be construed as preventing any State from exercising such powers and jurisdiction which it now has or may hereafter have with respect to companies, insured depository institutions, financial services holding companies, and subsidiaries thereof.

"(b) PREEMPTION OF STATE LAW.—

"(1) IN GENERAL.—Notwithstanding subsection (a), no provision of law of any State, including any provision relating to the business of banking (including any law relating to savings associations), real estate, insurance, securities, finance, retail or other law regulating the provisions of financial or other services, shall prevent or impede or shall be interpreted or applied by any administrative, executive, or judicial authority for the purpose of, or in a manner which has the effect of, preventing or impeding—

"(A) any insured depository institution, any affiliate of such institution, or any representative of the institution or affiliate from being acquired, owned or controlled by, or from being affiliated in any manner with, any company which is or becomes a financial services holding company or with any affiliate of such company because of—

"(i) the types of activities engaged in, directly or indirectly, by the insured depository institution, any affiliate of the institution, or any representative of the institution or affiliate; or

"(ii) the types of activities engaged in, directly or indirectly, by the company, any affiliate of the company, or any representative of the company or affiliate;

"(B) any company which is or becomes a financial services holding company, any affiliate of such company, or any representative of the company or affiliate, from acquiring, owning, or controlling or being affiliated in any way with any insured depository institution or any affiliate of any such institution because of—

"(i) the types of activities engaged in, directly or indirectly, by the company, any affiliate of the company, or any representative of the company or affiliate; or

"(ii) the types of activities engaged in, directly or indirectly, by the insured depository institution, any affiliate of the institution, or any representative of the institution or affiliate; or

"(C) any insured depository institution, any affiliate of any such institution, or any representative of any such institution or affiliate from offering or marketing products or services of any financial services holding company of which such institution is an affiliate or any other affiliate of such company or from having the products or services of the insured depository institution offered or marketed by any affiliate of such institution or by any representative of such company or affiliate, except—

"(i) with regard to offering and marketing insurance in accordance with section 4(c)(8) and paragraphs (5) and (6) of section 4(i); and

"(ii) when the preemption of such State law would permit the offering, marketing, or sale of insurance products or services by an insured depository institution or any subsidiary of such institution if such activity would otherwise be prohibited by operation of State law.

"(2) NO PREEMPTION OF CERTAIN STATE CONSUMER PROTECTION LAWS.—Paragraph (1)(C) shall not exempt any company which is or becomes a financial services holding company, any affiliate of such company, or any representative of any such company or affiliate from complying with, or shall annul, alter, or affect the application of, the laws of any State relating to the examination, supervision, or regulation of providers of financial services or the protection of consumers, except to the extent that the intent, purpose, or effect of any such law is inconsistent with this subsection or with the purposes of this Act and then only to the extent of the inconsistency.

"(3) NO PREEMPTION OF CERTAIN STATE INSURANCE LAWS.—Paragraph (1)(C) shall not annul, alter, or affect the application of the laws of any State insofar as such laws relate to the conduct of insurance activities by a financial services holding company.

"(4) CONSISTENT LAWS NOT AFFECTED.—Notwithstanding any other provision of this subsection, a State shall not be preempted from enforcing any State law that prohibits any ownership, control, or activity that is prohibited by this Act.

"(5) INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this subsection, the term 'insured depository institution' includes a branch, agency, or commercial lending company subsidiary of a foreign bank (as

such terms are defined in section 1(b) of the International Banking Act of 1978).".

SEC. 40e. PENALTIES.

Section 8 of the Bank Holding Company Act of 1956 (12 U.S.C. 1847) is amended—

(1) by striking "bank holding company" wherever such term appears and inserting "financial services holding company";

(2) in subsection (a)(2), by striking "profit significantly" and inserting "obtain anything of value";

(3) in section (a)(2), by striking "Every officer, director, agent" and all that follows; and

(4) in subsection (b)(1), by striking "forfeit and".

SEC. 407. CONFORMING AMENDMENTS TO SECTION 11.

Section 11 of the Bank Holding Company Act of 1956 (12 U.S.C. 1849) is amended—

(1) by striking "bank holding company" each place such term appears and inserting "financial services holding company"; and

(2) in subsection (b)(1), by striking "failure of a bank" and inserting "failure of an insured depository institution".

SEC. 408. APPLICATION OF THE LIMITATIONS ON TYING ARRANGEMENTS AND INSIDER LENDING TO FINANCIAL SERVICES HOLDING COMPANIES.

(a) DEFINITIONS.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1971) is amended by striking "bank holding company" and inserting "financial services holding company".

(b) CERTAIN TYING ARRANGEMENTS PROHIBITED.—Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2)(A) Except as provided in subparagraph (B), a financial services holding company and any subsidiary (other than a bank) of such holding company shall not, in any manner, extend credit, lease, or sell property of any kind, furnish any service, or fix or vary the consideration for any such credit, service, product, or other activity, on the condition that or subject to the requirement that the customer obtain credit, property, or service from an affiliated bank.

"(B) A financial services holding company and any subsidiary (other than a bank) of such holding company may vary the consideration—

"(i) for any extension of credit, lease or sale of property of any kind, or the furnishing of any service on the condition that or subject to the requirement that the customer obtain some credit, property, or service from an affiliated bank if the products or services offered to and obtained by the customer are also separately available to such customer on substantially the same terms, including interest rate, collateral, and cost, as those prevailing at the time for comparable transactions that are not subject to such conditions or requirements; or

"(ii) for any loan, discount, deposit, or trust service on the condition that or subject to the requirement that the customer obtain a loan, discount, deposit or trust service from an affiliated bank if such products or services described in this subparagraph are also separately available to such customer.

"(C) The Board may prescribe such regulations to carry out the purposes of this paragraph which may include such restrictions or limitations with respect to subparagraph (B) as the Board determines to be appropriate in the public interest.".

(c) INSIDER LOANS.—Subparagraphs (C) and (D) of section 22(h)(6) of the Federal Reserve Act (12 U.S.C. 375b(6)) are amended by striking "bank holding company" each place such term appears and inserting "financial services holding company".

SEC. 409. PROVISIONS EXEMPTING FINANCIAL SERVICES HOLDING COMPANIES FROM THE SAVINGS AND LOAN HOLDING COMPANY ACT.

Section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)) is amended—

(1) in paragraph (1), by striking subparagraph (D) and inserting the following new subparagraph:

"(D) SAVINGS AND LOAN HOLDING COMPANY DEFINED.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company.

"(ii) CERTAIN COMPANIES EXCLUDED.—The term 'savings and loan holding company' does not include—

"(I) any company which is a financial services holding company which is registered under and subject to the Bank Holding Company Act of 1956, other than a company described in section 4(f) of such Act; or

"(II) any subsidiary of any company described in subclause (I).'"; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) EXEMPTION FOR FINANCIAL SERVICES HOLDING COMPANIES.—This section shall not apply to—

"(A) any company that is a financial services holding company which is registered under and subject to the provisions of the Bank Holding Company Act of 1956, other than any company described in section 4(f) of such Act; or

"(B) any subsidiary of any company described in subparagraph (A) which is not a savings association.".

SEC. 410. CEASE AND DESIST AUTHORITY.

Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended by striking "bank holding company" each place such term appears and inserting "financial services holding company.".

SEC. 411. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall take effect on January 1, 1993.

(b) CERTAIN AMENDMENTS EFFECTIVE IMMEDIATELY.—The amendments made by sections 408 and 409 shall take effect on the date of enactment of this Act.

CHAPTER 2—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 421. FAILING THRIFT CONVERSIONS TO SAIF-INSURED NATIONAL BANK.

Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(s) TREATMENT OF SAIF-INSURED NATIONAL BANKS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a national bank that is a Savings Association Insurance Fund member (including any savings association applying for conversion to a national bank charter) upon application shall be deemed to be a savings association for the purpose of this section if the Director determines that—

"(A) the national bank resulted (or will result) from the conversion of a savings association which, at the time the control of such association was acquired—

"(i) was in danger of default (as defined in section 3(x)(2) of the Federal Deposit Insurance Act); or

"(ii) was under the control of a conservator or receiver appointed for such savings association; or

"(B) the national bank has acquired more than an insignificant portion of the assets of a savings association described in clauses (i) or (ii) of subparagraph (A),

and after the conversion or acquisition the bank is a level 1 or level 2 depository institution (as defined in section 38 of the Federal Deposit Insurance Act).

"(2) RULE OF CONSTRUCTION.—No provision of this section shall be construed as affecting—

"(A) the power of any national bank described in paragraph (1) to engage in any activity in the same manner and to the same extent as any national bank which is not subject to this section; or

"(B) the authority of any national bank described in paragraph (1) to be an affiliate of any company of which a savings association may be an affiliate under this section.".

SEC. 422. QTL-QUALIFIED NATIONAL BANKS RESULTING FROM CONVERSION OF SAVINGS ASSOCIATIONS.

Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by inserting after subsection (s) (as added by section 421 of this subtitle) the following new subsection:

"(t) TREATMENT OF QTL-QUALIFIED NATIONAL BANKS RESULTING FROM SAVINGS ASSOCIATIONS.—Notwithstanding any other provision of law, any national bank which—

"(1) meets the requirements for a qualified thrift lender under subsection (m);

"(2) resulted from the conversion of a savings association subsidiary of a savings and loan holding company; and

"(3) is a level 1 or level 2 depository institution,

shall be deemed to be a savings association for purposes of this section.".

SEC. 423. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction were a State bank which the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution which is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act.

SEC. 424. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by inserting after subsection (t) (as added by section 422 of this title) the following new subsection:

"(u) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United

States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' has the meaning given to such term in section 13(f)(8)(B) of the Federal Deposit Insurance Act.".

SEC. 425. ACQUISITION OF THRIFT INSTITUTIONS BY CERTAIN COMPANIES WHICH CONTROL BANKS AND ARE NOT TREATED AS HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended by adding at the end the following new paragraph:

"(14) SAVINGS ASSOCIATION ACQUISITIONS.—For purposes of paragraph (2)(A), an insured institution is described in this paragraph if control of the insured institution, or more than 5 percent of the shares of the insured institution, is acquired by a company described in paragraph (1) of this subsection in connection with a transaction—

"(A) which involves the insured institution and a bank controlled by the company;

"(B) which is approved under section 5(d)(3) of the Federal Deposit Insurance Act by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act); and

"(C) in which a bank controlled by such company is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act).".

(b) EXCEPTIONS TO CERTAIN LIMITATIONS ON BANK ACTIVITIES TO FACILITATE ACQUISITIONS.—Section 4(f)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(3)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTIONS FOR PARAGRAPH (14) MERGERS.—If any company described in paragraph (1) acquires control of any insured institution, or more than 5 percent of the shares of any insured institution, pursuant to a transaction described in paragraph (14)—

"(i) subparagraph (B)(i) shall not apply so as to prohibit the bank which is the acquiring, assuming, or resulting depository institution (as defined in section 5(d)(3)(I) of the Federal Deposit Insurance Act) in connection with such transaction from engaging in any activity in which the insured institution was engaged before the date of such transaction to the extent that—

"(I) the activity is permissible for bank holding companies under subsection (c)(8); and

"(II) the bank is not both accepting demand deposits that the depositor may withdraw by check or similar means for payment to third parties or others and engaging in the business of making commercial loans as a result of engaging in such activity; and

"(ii) subparagraph (B)(iv) shall not apply to an increase in the assets of the bank controlled by such company as a result of the transaction referred to in paragraph (14) during the 1-year period beginning on the date of such transaction.".

(c) TECHNICAL AMENDMENTS.—Clauses (i) and (ii)(VIII) of section 4(f)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)(2)(A)) are amended by striking "(10) or (12)" and inserting "(10), (12), or (14)".

CHAPTER 3—FINANCIAL ACTIVITIES OF NATIONAL BANKS

SEC. 431. SECURITIES ACTIVITIES OF NATIONAL BANKS.

(a) IN GENERAL.—The paragraph designated the "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by adding at the end the following: "Notwithstanding any other provision of law (including this section), a national bank shall not, in the United States and pursuant to any express or incidental power, underwrite, distribute, or sell securities backed by, or representing interests in, a pool of assets originated or purchased by the bank or any affiliate of the bank, and the bank shall not continue to engage in such activity pursuant to any order issued by the Comptroller of the Currency. A national bank shall not sponsor, organize, promote, or control an investment company registered under the Investment Company Act of 1940. A national bank shall not engage in the United States in any securities activity except to the extent that such activity is specifically authorized by statute, or authorized by a regulation prescribed by, or an order, interpretation, or approval issued by, the Comptroller of the Currency pursuant to such statute, on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, and does not involve the underwriting or distributing by any national bank of securities backed by or representing an interest in mortgages or other assets originated or purchased by the national bank or any affiliate of the bank. No subsidiary of a national bank may engage in any activity in which a national bank may not engage.".

(b) REPEAL OF PROVISIONS OF THE BANKING ACT OF 1933.—Effective January 1, 1993, sections 20 and 32 of the Banking Act of 1933 (12 U.S.C. 377 and 78, respectively) are hereby repealed.

(c) CONFORMING AMENDMENTS.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by inserting after the word "stock" the following: "and with respect to sponsoring, organizing, promoting, or controlling of an investment company registered under the Investment Company Act of 1940".

SEC. 432. INSURANCE ACTIVITIES OF NATIONAL BANKS.

(a) LIMITED INSURANCE ACTIVITIES FOR NATIONAL BANKS LOCATED IN SMALL TOWNS.—In addition to the powers now vested by law in national banks organized under the laws of the United States, any national bank that is located in a place that has a population not exceeding 5,000 (as shown by the preceding decennial census) may engage in insurance sales and insurance solicitation activities if—

(1) the sales and solicitation activities are confined to that place of 5,000 or less and the adjacent rural unincorporated areas closest to that place; and

(2) the insurance is sold only to—

(A) individuals who are residents of, or are employed in, any place (including any unincorporated rural area) in such State that has a population not exceeding 5,000 (as shown by the preceding decennial census);

(B) persons—

(i) who are engaged in business in any place in such State that has a population not exceeding 5,000 (as shown by the preceding decennial census) and have a principal business office in any such place; or

(ii) whose principal headquarters is located in any such place,

with respect to employees (including owner-employees) who reside in or are principally employed in such place, real property located in such place, personal property which is principally used in such place, or services provided by persons located in such place; and

(C) any other person if the insurance is issued with respect to—

(i) real property located in any place in such State that has a population not exceeding 5,000 (as shown by the preceding decennial census); or

(ii) personal property which is principally used in such place.

(b) CERTAIN ACTIVITIES PROHIBITED IN CONNECTION WITH INSURANCE ACTIVITIES.—No national bank which sells insurance pursuant to subsection (a) may—

(1) assume or guarantee the payment of any premium on any insurance policy issued through the agency of the bank by the insurance company for which the bank is acting as agent; or

(2) guarantee the truth of any statement made by an insurance customer in filing such customer's application for insurance.

(c) LIMITATION ON TITLE INSURANCE ACTIVITIES.—No national bank may engage, directly or through a subsidiary, in any activity involving the underwriting or sale of title insurance other than title insurance agency activities in which such bank was actively and lawfully engaged, directly or through a subsidiary, as of June 1, 1991.

(d) REPEAL.—

(1) IN GENERAL.—To the extent the paragraph described in paragraph (2) is in effect on the day before the date of the enactment of this Act (whether as a paragraph of the Act described in such paragraph or as a provision of any other law), such paragraph shall cease to be effective as of such date of enactment.

(2) PARAGRAPH DESCRIBED.—The paragraph described in this paragraph is the paragraph contained in the Act entitled "An Act to amend certain sections of the Act entitled 'Federal reserve Act' approved December twenty-third, nineteen hundred and thirteen' and approved September 7, 1916 (39 Stat. 753; omitted from the United States Code) which—

(A) relates to the authority of national banks in small communities to act as insurance agents and real estate brokers; and

(B) begins "That in addition to the powers now vested by law in national banking associations".

SEC. 433. AMENDMENTS TO SECTIONS 23A AND 23B OF THE FEDERAL RESERVE ACT.

(a) SECTION 23A.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(5) NOTICE REQUIRED FOR CERTAIN TRANSACTIONS.—No financial services holding company may permit any insured depository institution subsidiary to engage in any covered transaction if the amount of the covered transaction is equal to or greater than the amount which is equal to 5 percent of the capital stock and surplus of the institution unless notice is provided not less than 5 days before such transaction is engaged in to the Board and the appropriate Federal banking agency for the insured depository institution.";

(2) in subsection (b)(1)(D), by striking clause (ii) and inserting the following new clause:

"(ii) any investment company, commodity pool, or other company engaged in substantially the same activities as an investment company or commodity pool with respect to which a member bank or any affiliate of the member bank is an investment adviser (as defined in section 2(a)(20) of the Investment Company Act of 1940) or a commodity trading advisor (as defined in section 2(a)(1)(A) of the Commodity Exchange Act) or for which such bank or affiliate performs activities which are substantially equivalent to those provided by an investment adviser or commodity trading advisor; and";

(3) in subsection (b)(2)(A), by inserting "and of which the member bank owns at least 80 percent of the voting stock" after "member bank";

(4) in subsection (b)(5), by inserting "principally engaged in deposit taking or lending activities" after "trust company";

(5) by striking "or" at the end of subsection (b)(7)(D);

(6) in subsection (b)(7)(E) by inserting "to, or" after "standby letter of credit,";

(7) in subsection (b)(7), by inserting after subparagraph (E) the following new subparagraphs:

"(F) the assumption by a member bank of a liability of any affiliate whether directly or through the transfer of such liability, or the shares of such affiliate, to the member bank affiliate;

"(G) a loan or extension of credit to any company, or the issuance of or participation in a standby letter of credit, asset purchase agreement, indemnification, guarantee, insurance or other facility with any company, the purpose of which is to enhance the marketability of securities or other obligations or assets (other than securities that a member bank may underwrite pursuant to section 5136 of the Revised Statutes) that are underwritten or distributed by the affiliate, unless there is substantial participation by other lenders in such loan, extension of credit, letter of credit, agreement, indemnification, guarantee, insurance or other facility; or

"(H) any other financial arrangement that is determined by the Board by regulation to be substantially equivalent to a transaction described in this paragraph;";

(8) in subsection (c)(1)—

(A) by inserting "to, or" after "letter of credit issued"; and

(B) by striking "at the time of the transaction";

(9) in subsection (c)(4)—

(A) by inserting "the member bank or" after "issued by"; and

(B) by inserting "to, or" after "letter of credit"; and

(10) in subsection (d)(5), by inserting "to the extent that the company provides services solely to affiliated member banks" before the semicolon;

(b) SECTION 23B.—

(1) Section 23B(a)(2)(E) of the Federal Reserve Act (12 U.S.C. 371c-1(a)(2)(E)) is amended—

(A) in clause (i), by striking ", or" and inserting instead a semicolon;

(B) in clause (ii), by striking the period and inserting instead "; or"; and

(C) by inserting at the end thereof the following new clause:

"(iii) if the third party is a customer of an affiliate (as defined in section 2 of the Bank Holding Company Act of 1956).".

(2) Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c-1(b)(2)) is amended by inserting "officers, directors, or employees of" after "of the bank or".

SEC. 434. CUSTOMER DISCLOSURE.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) CUSTOMER DISCLOSURE REGARDING SECURITIES, INSURANCE, AND OTHER NONBANKING PRODUCTS.—

"(1) PRODUCTS OFFERED, RECOMMENDED OR SOLD BY DEPOSITORY INSTITUTIONS.—An insured depository institution shall prominently disclose in writing to the institution's customers pursuant to regulations prescribed by the appropriate Federal banking agency, that securities or insurance products offered, recommended, or sold by the insured depository institution are not deposits, are not insured by the Federal Deposit Insurance Corporation, are not guaranteed by the insured depository institution or an affiliated insured depository institution, and are not otherwise an obligation of an insured depository institution, unless such is the case.

"(2) PRODUCTS OFFERED, RECOMMENDED, OR SOLD ON BANK PREMISES OR THROUGH JOINT MARKETING ACTIVITIES.—An insured depository institution shall not permit securities or insurance products to be offered, recommended, or sold on the premises of the institution or to customers of the institution as part of joint marketing activities with any other person, unless that person prominently discloses in writing, in addition to the disclosures required in paragraph (1), that such person is not an insured depository institution and is separate from the insured depository institution.

"(3) CUSTOMER'S SIGNED STATEMENT RELATING TO UNINSURED DEPOSITS.—

"(A) REQUIREMENTS.—In connection with—

"(i) any sale of any instrument or financial product by any insured depository institution, or any affiliate of such institution, which does not constitute an insured deposit;

"(ii) any acceptance of a deposit by such institution or affiliate which is not an insured deposit; or

"(iii) any other transaction which results in the acquisition of any such obligation, instrument, or product from the institution or affiliate,

the institution or affiliate shall obtain from the purchaser, depositor, or acquirer, before the completion of the sale, deposit, or transaction, a separate statement, signed and dated by such person, which contains the following declaration in not less than 18-point boldface type: 'I understand that this is not an insured deposit. The United States Government does not guarantee it. If [name of institution or affiliate] fails, I know that I may lose some or all of my money.'.

"(B) EXCEPTION.—The provisions of this paragraph shall not apply with respect to any transaction—

"(i) effected by a broker or dealer registered under the Securities Exchange Act of 1934;

"(ii) involving an insurance activity of any affiliate of an insured depository institution which is not itself an insured depository institution or a subsidiary of such institution if the transaction—

"(I) is not engaged in on the premises of any insured depository institution (including any branch) or any subsidiary of such institution;

"(II) is not engaged in by the affiliate in connection with any joint marketing activities between the affiliate and any such institution or subsidiary; and

"(III) does not otherwise involve any such insured depository institution or subsidiary; or

"(iii) consisting of any loan or other extension of credit by the insured depository institution or affiliate.

"(4) REGULATIONS.—The appropriate Federal banking agencies, with respect to insured depository institutions and financial services holding companies, and the Securities and Exchange Commission, with respect to persons registered with such Commission, may adopt regulations implementing this subsection.".

SEC. 435. BANKERS' BANKS.

(a) ACQUISITION OF INTERESTS.—The paragraph designated the "Seventh." of section 5136 of the Revised Statutes (12 U.S.C. 24 Seventh.) (as amended by section 431 of this Act) is amended by inserting "or depository institution holding companies" after "providing services for other depository institutions".

(b) ISSUANCE OF CERTIFICATE.—Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)) is amended by inserting "or depository institution holding companies" after "other depository institutions" the 2d place such term appears.

CHAPTER 4—NONBANKING ACTIVITIES OF FOREIGN BANKS IN THE UNITED STATES

SEC. 441. AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) TREATMENT OF FOREIGN BANKS.—Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) (as amended by section 207) is amended to read as follows:

"(a) TREATMENT OF FOREIGN BANKS AS HOLDING COMPANIES.—

"(1) IN GENERAL.—Except as otherwise provided in this section, any foreign bank which—

"(A) maintains a branch or agency in the United States; or

"(B) directly or indirectly owns or controls a commercial lending company organized under State law,

shall be subject to the Bank Holding Company Act of 1956 and sections 105 and 106 of the Bank Holding Company Act Amendments of 1970 in the same manner and to the same extent as a financial services holding company.

"(2) TREATMENT OF FOREIGN BANK HOLDING COMPANIES.—Any company that directly or indirectly owns or controls a foreign bank described in paragraph (1) shall be subject to the Bank Holding Company Act of 1956 in the same manner and to the same extent as a company that owns or controls a financial services holding company.

"(3) COMPARABLE CAPITAL AND OTHER FINANCIAL REQUIREMENTS.—

"(A) DETERMINATION REQUIRED.—In reviewing any notice under section 4 of the Bank Holding Company Act of 1956 by any foreign bank or company controlling a foreign bank

to which this section applies, the Board shall disapprove the notice unless the Board determines that the financial resources of such bank or company, including the capital level under section 38 of the Federal Deposit Insurance Act, are comparable to those of a domestic financial services holding company that would be permitted to engage in such activities.

"(B) CRITERIA FOR DETERMINATION.—In making the determination in subparagraph (A), the Board shall—

"(i) take into account differences in domestic and foreign accounting standards; and

"(ii) assure that competitive comparability between domestic and foreign banks is maintained.".

(b) AUTHORITY TO TERMINATE GRANDFATHERED STATUS OF ACTIVITIES NOW PERMISSIBLE UNDER THE BANK HOLDING COMPANY ACT OF 1956.—Section 8(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3106(c)(1)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this paragraph or any other provision of law, the Board shall terminate any authority conferred under this subsection on any foreign bank or company with respect to an affiliate engaged in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States upon a finding by the Board that such business has been authorized by statute as a permissible activity for financial services holding companies in the United States.".

Subtitle B—Amendments to Federal Securities Laws

CHAPTER 1—REGULATION OF SECURITIES ACTIVITIES OF DEPOSITORY INSTITUTIONS

PART I—BROKER-DEALER PROVISIONS

SEC. 451. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

"(4)(A) The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

"(B) A bank shall not be deemed to be a 'broker' because it engages in one or more of the following activities:

"(i) fiduciary activities (including effecting transactions in the course of such fiduciary activities) permissible for national banks under the first section of the Act of September 28, 1962 (12 U.S.C. 92a), or for State banks under relevant State trust law, except that a bank shall be deemed a broker if, in the conduct of such fiduciary activities, it—

"(I) publicly solicits brokerage business; or

"(II) is compensated for such business by the payment of commissions or similar remuneration based on effecting transactions in securities (excluding fees calculated as percentage of assets under management); or

"(ii) effects transactions in exempted securities, commercial paper, bankers' acceptances, or commercial bills.".

SEC. 452. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

"(5)(A) The term 'dealer' means any person engaged in the business of buying and selling securities for his own account through a broker or otherwise.

"(B) Such term does not include—

"(i) any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business; or

"(ii) any bank insofar as the bank (I) buys and sells commercial paper, bankers' acceptances, or commercial bills, or exempted securities; or (II) buys and sells securities for investment purposes for the bank or for accounts in which the bank, acting as trustee, is authorized to determine the securities to be purchased or sold.".

SEC. 453. POWER TO EXEMPT FROM THE DEFINITIONS OF BROKER AND DEALER.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following:

"(e) The Commission, by rule, regulation, or order, upon its own motion or upon application, may conditionally or unconditionally exempt any person or class of persons from the definitions of 'broker' or 'dealer,' if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of this title.".

SEC. 454. REQUIREMENT THAT BANKS FALLING WITHIN THE DEFINITIONS OF BROKER OR DEALER PLACE THEIR SECURITIES ACTIVITIES IN A SEPARATE CORPORATE ENTITY.

Section 15(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(a)) is amended to read as follows:

"SEC. 15. (a)(1) It shall be unlawful for any broker or dealer that is either a person other than a natural person or a natural person not associated with a broker or dealer that is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.

"(2) It shall be unlawful for any bank to act as a broker or dealer, except in the course of an exclusively intrastate business. This subsection shall not preclude a subsidiary of a bank that is registered in accordance with subsection (b) from acting as a broker or dealer to any extent otherwise permissible by Federal banking law.

"(3) The Commission, by rule or order, as it deems consistent with the public interest and the protection of investors, may conditionally or unconditionally exempt from paragraphs (1) and (2) of this subsection any broker or dealer or class of brokers or dealers specified in such rule or order.".

SEC. 455. PROVISIONS RELATING TO BROKER-DEALERS AFFILIATED WITH DEPOSITORY INSTITUTIONS.

The Securities Exchange Act of 1934 is amended by inserting after section 15C (15 U.S.C. 78o-5) the following new section:

"PROVISIONS RELATING TO CERTAIN BROKER-DEALERS AFFILIATED WITH FINANCIAL SERVICES HOLDING COMPANIES

"Sec. 15D. (a) DEFINITIONS.—As used in this section—

"(1) the terms 'financial services holding company', 'insured depository institution', 'Board', 'control', 'subsidiary', and 'securities affiliate', have the meanings provided by section 2 of the Bank Holding Company Act of 1956; and

"(2) the term 'affiliated insured depository institution or subsidiary thereof' means, with respect to any securities affiliate that is controlled by a financial services holding company, an insured depository institution that is controlled by such financial services holding company, or a subsidiary of such insured depository institution.

"(b) CONSUMER PROTECTION PROVISIONS.—

"(1) DISCLOSURES BY BANK-AFFILIATED BROKER-DEALERS REGARDING FEDERAL DEPOSIT INSURANCE.—

"(A) GENERAL REQUIREMENT.—Each registered broker or dealer that is an affiliate of an insured depository institution shall provide notice to its customers of the inapplicability of Federal deposit insurance with respect to securities or other financial products recommended, offered, or sold by such broker or dealer to such customers in accordance with regulations which the Commission, in consultation with the Board of Governors of the Federal Reserve System, shall prescribe in accordance with this subsection and consistent with the public interest and the protection of investors.

"(B) CONTENTS OF DISCLOSURES.—The notice required under subparagraph (A) shall be designed to inform customers of a broker or dealer—

"(i) that the registered broker or dealer—

"(I) is not an insured depository institution; and

"(II) is a separate corporate entity with respect to any insured depository institution affiliate of such broker or dealer;

"(ii) whether the securities or other financial products underwritten, sold, offered, or recommended by the registered broker or dealer—

"(I) are deposits which are insured by the Federal Deposit Insurance Corporation;

"(II) are instruments which are guaranteed either as to principal or interest by any insured depository institution affiliate of such broker or dealer;

"(III) are otherwise obligations of any insured depository institution; and

"(iii) whether or not any insured depository institution that is an affiliate of such broker or dealer is permitted under applicable law to extend credit, arrange for the extension of credit, or issue a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, to or for the benefit of an issuer of any security that the broker or dealer sells or offers for sale; and

"(iv) such additional information as the Commission deems to be necessary to carry out the purposes of this subsection.

"(C) TIME AND MANNER OF DISCLOSURE.—The regulations prescribed by the Commission under this subsection shall specify a time and manner by which the notice required by this subsection shall be provided to customers that the Commission determines will effectively inform customers concerning the inapplicability of Federal deposit insurance.

"(D) USE OF ADDITIONAL LANGUAGES.—The regulations prescribed by the Commission under this paragraph shall specify when, under which circumstances, and by what means and procedures the notice required under this paragraph shall be made available in languages other than English.

"(2) DISCLOSURES OF CONFIDENTIAL CUSTOMER INFORMATION PROHIBITED.—

"(A) IN GENERAL.—No securities affiliate may disclose, directly or indirectly, any confidential customer information to any person (as defined in section 1 of title 1, United States Code), without the prior written consent of the customer.

"(B) RECORDS OF CUSTOMER CONSENT.—Whenever any securities affiliate obtains the prior written consent of a customer for purposes of subparagraph (A), such affiliate shall—

"(i) obtain an acknowledgment of such consent by the customer, including the date the consent was acknowledged and the customer's name, address, and any applicable account number;

"(ii) obtain such consent separately from any other authorization or consent of the customer;

"(iii) inform the customer that the consent is not required as a condition for the performance of services for the customer; and

"(iv) maintain records of compliance with clauses (i), (ii), and (iii).

"(C) CUSTOMER DEFINED.—For purposes of this paragraph, the term 'customer' means any person who, after the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, establishes a securities account, investment advisory relationship, or other relationship in connection with securities transactions with, or purchases any service or financial product from, such securities affiliate.

"(D) CONFIDENTIAL CUSTOMER INFORMATION DEFINED.—For purposes of subparagraph (C), the term 'confidential customer information' means financial information regarding any specific individual which has been derived from any record of any securities affiliate and pertains to the individual's relationship with the securities affiliate.

"(E) CERTAIN INFORMATION NOT INCLUDED IN DEFINITION.—Notwithstanding subparagraphs (C) and (D), the term 'confidential customer information' shall not include—

"(i) any information obtainable from an unaffiliated credit bureau or similar entity or information obtainable in the ordinary course of business from any other unaffiliated entity;

"(ii) any information provided to any credit bureau or similar entity in the ordinary course of business;

"(iii) any information obtainable in connection with insurance—

"(I) which is limited to assuring the repayment of the outstanding balance due on an extension of credit in the event of the death, disability, or involuntary unemployment of the debtor;

"(II) on real or personal property obtained by or on behalf of a securities affiliate in the event a debtor has failed to provide reasonable evidence of required insurance in accordance with an extension of credit; or

"(III) to assure the repayment of outstanding balances due in connection with an extension of credit in the event of the loss or damage to property used as collateral on such extension of credit; and

"(iv) any information provided—

"(I) to the Securities and Exchange Commission, an appropriate regulatory agency, or a self-regulatory organization; or

"(II) in accordance with the Right to Financial Privacy Act of 1978 to any Government authority (as defined in section 1101(3) of such Act).

"(F) DISCLOSURE OF CUSTOMER INFORMATION.—In addition to any requirement or limitation contained in this section, the Commission may prescribe regulations limiting disclosures of nonpublic customer information from any securities affiliate to any affiliate of such securities affiliate, including an evaluation of the creditworthiness of an issuer or other customer of that securities affiliate or any subsidiary or affiliate of such securities affiliate.

"(3) LIMITATIONS ON ADVERTISEMENT.—The Commission shall prescribe regulations to prohibit any securities affiliate from employing any advertisement that would mislead or otherwise cause a reasonable person to believe mistakenly that an affiliated insured depository institution or the Federal Government is responsible for the activities of the securities affiliate, stands behind the affiliate's credit, guarantees any returns on securities sold by the affiliate, or is a source of payment of any obligation of or sold by the affiliate.

"(c) REQUIREMENTS APPLICABLE IN THE CASE OF FINANCIAL SERVICES HOLDING COMPANIES WITH SECURITIES AFFILIATES.—

"(1) CERTAIN FINANCIAL TRANSACTIONS OF INSURED DEPOSITORY INSTITUTIONS PROHIBITED.—Notwithstanding any provision of paragraph (5), a securities affiliate may not directly or indirectly engage in any of the following:

"(A) Except as provided in paragraph (3), knowingly obtain, receive, or enjoy the beneficial use of credit from an affiliated insured depository institution.

"(B) Knowingly obtain, receive, or enjoy the beneficial use of a guaranty, acceptance, or letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, from an affiliated insured depository institution.

"(C) Sell to an affiliated insured depository institution, for its own account, or for the account of any subsidiary of the institution, any financial asset of the securities affiliate that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(D) Sell to an affiliated insured depository institution, for its own account, or for the account of any subsidiary of the institution, any security (other than securities issued by an open-end investment company or a unit investment trust) of which the securities affiliate is an underwriter or a member of the selling group, or which the securities affiliate otherwise places, until—

"(i) in the case of an underwriting, 60 days after the end of the underwriting period; or

"(ii) in the case of a placement, 60 days after completion of the placement.

"(E) Knowingly sell to a customer account for which an affiliated insured depository institution or its subsidiary, acting as fiduciary, is authorized to determine the securities to be purchased or sold, any security (other than securities issued by an open-end investment company or a unit investment trust) of which the securities affiliate is an underwriter or a member of the selling group or which the securities affiliate otherwise places until—

"(i) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(ii) in the case of a placement, 90 days after completion of the placement.

The requirements of this subparagraph (E) apply whether or not such purchase is authorized by any trust agreement or any other instrument authorizing the insured depository institution or subsidiary to act in such capacity, unless such purchase is permitted by State law, is explicitly authorized in the trust agreement or other instrument establishing the fiduciary relationship, and is effectuated by endorsement by the creator of the trust of a separate document that discloses (in accordance with regulations prescribed by the Board) any conflict of interest that an insured depository institution may have in making such purchase. Notwithstanding any provision of Federal or State law, if the creator of any trust agreement or other instrument referred to in the preceding sentence is incapable of providing the authorization or effectuating an endorsement referred to in such sentence every beneficiary of such trust or instrument shall provide such authorization or effectuate such endorsement.

"(F) Arrange for the extension of credit from an affiliated insured depository institution to any investment company which is sponsored, organized, controlled, promoted, or advised by the securities affiliate, except as permitted by regulations prescribed by the Commission pursuant to section 18(f)(3) of the Investment Company Act of 1940.

"(G) Arrange for the extension of credit, or arrange for the issuance or entry into of a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, from an affiliated insured depository institution to an issuer of securities for which the securities affiliate is underwriting or placing any security for the purpose of paying, in whole or in part, the principal of, or any interest or dividends on, those securities.

"(H) Arrange for the extension of credit to a customer of the securities affiliate for the purpose of repaying, in whole or in part, credit extended to such customer by such securities affiliate.

"(I) Except as permitted under section 4(n)(4)(G) of the Bank Holding Company Act of 1956, arrange for the extension of credit from, or arrange for the issuance or entry into of a guaranty, acceptance, letter of credit, endorsement, asset purchase agreement, indemnity, insurance, or other credit instrument or facility, including a standby letter of credit, from an affiliated insured depository institution to or for the benefit of the issuer of any security of which the securities affiliate is an underwriter or a member of the selling group, or which the securities affiliate otherwise places, until—

"(i) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(ii) in the case of a placement, 90 days after completion of the placement.

"(J) Except as provided in paragraph (5), purchase any financial asset of an affiliated depository institution or a subsidiary thereof that is not a security of the United States or any agency of the United States or a security on which the principal and interest are fully guaranteed by the United States or any such agency.

"(2) CERTAIN FINANCIAL TRANSACTIONS OF HOLDING COMPANIES AND SUBSIDIARIES DURING DISTRIBUTIONS PROHIBITED.—No securities affiliate may, directly or indirectly, arrange for the extension of credit from any affiliated financial services holding company or subsidiary of a financial services holding company to any person, if such credit is secured by, or is used to purchase, any security that is the subject of a distribution or placement in which a securities affiliate of such holding company participates as an underwriter or member of the selling group or which the securities affiliate otherwise places (other than securities issued by an open-end investment company or a unit investment trust or securities of the United States or any agency of the United States or securities on which the principal and interest are fully guaranteed by the United States or any such agency) until 30 days after the end of the period in which such security is

the subject of such distribution or placement.

"(3) EXCEPTION FOR INTRADAY EXTENSIONS OF CREDIT IN CONNECTION WITH CLEARING GOVERNMENT SECURITIES.—Paragraph (1)(A) shall not apply with respect to any extension of credit which is made for the purchase or sale of any securities of the United States or any agency of the United States or any securities on which the principal and interest are fully guaranteed by the United States or any such agency, if—

"(A) the extension of credit is to be repaid on the same calendar day;

"(B) the extension of credit is incidental to the clearing of transactions in those securities through such institution or any subsidiary; and

"(C) both the principal of, and the interest on, the extension of credit are fully secured, on a market value basis, by securities of the United States or any agency of the United States or securities on which the principal and interest are fully guaranteed by the United States or any such agency.

"(4) PROHIBITIONS ON DISCRIMINATORY CREDIT TREATMENT.—No securities affiliate knowingly shall obtain or arrange for an extension of credit or services that would violate section 4(n)(4)(D) of the Bank Holding Company Act of 1956.

"(5) ASSET PURCHASES FROM AFFILIATED INSURED INSTITUTION OR SUBSIDIARY THEREOF.—

"(A) IN GENERAL.—A securities affiliate may, notwithstanding paragraph (1)(J) of this paragraph but subject to section 23B of the Federal Reserve Act, purchase any asset of an affiliated insured depository institution for the purpose of including such asset in a pool of assets for the purpose of issuing asset-backed securities if—

"(i) those securities are rated as investment grade by at least 1 unaffiliated, nationally recognized statistical rating organization;

"(ii) those securities are issued or guaranteed by a government sponsored enterprise determined by the Board for purposes of section 4(n)(4)(F)(i)(II) of the Bank Holding Company Act of 1956;

"(iii) those securities represent interests in securities described in clause (ii) of this subparagraph;

"(iv) the price at which an equity security or the yield at which a debt security to be distributed to the public is established at a price no higher, or yield no lower, than that recommended by a qualified independent underwriter which has also participated in the preparation of the registration statement and the prospectus, offering circular, or similar document; or

"(v) those securities would not be the subject of a public offering and would be sold only to accredited investors, as defined in the Securities Act of 1933.

"(B) REGULATIONS.—The Commission, after consultation with the Board of Governors of the Federal Reserve System, shall prescribe such regulations as may be necessary to ensure that transactions described in subparagraph (A) comply with the requirements of this subsection.

"(C) ASSET DEFINED.—For purposes of this paragraph, the term 'asset' means any note, draft, acceptance, loan, lease, receivable, other obligation, or pools of any such obligations.

"(D) QUALIFIED INDEPENDENT UNDERWRITER.—For purposes of this paragraph, the term 'qualified independent underwriter' shall be defined by regulation prescribed by the Securities and Exchange Commission.

"(6) DEFINITIONS.—For purposes of this subsection, the term 'insured depository institution' includes any subsidiary of the institution, other than an entity required to register with the Securities and Exchange Commission.

"(d) TRANSACTIONS ON BANK PREMISES.—

"(1) PROHIBITION.—No insured depository institution may permit any evidence of indebtedness of, or ownership interest in, such insured depository institution or any affiliate of such insured depository institution to be sold or offered for sale to the general public in any part of any office (other than an office that is not located within any State) of such insured depository institution that is commonly accessible to the general public for the purpose of accepting deposits.

"(2) EXCEPTIONS.—

"(A) REGISTERED BROKERS AND DEALERS.—This subsection shall not apply to transactions in shares of investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) that are affiliated with the bank, if such transactions are effected by or through a broker or dealer registered under this Act and are conducted in accordance with such rules, regulations, or orders as the Commission may prescribe consistent with the public interest, the protection of investors, and the purposes of this subsection.

"(B) DEPOSITS, CERTAIN MEANS OF PAYMENT TO THIRD PARTIES AND CERTAIN OTHER INSTRUMENTS.—This subsection shall not apply to any evidence of indebtedness or ownership interest that—

"(i) is a deposit in an insured depository institution; or

"(ii) constitutes a means of payment to a third party, such as a traveler's check, cashier's check, teller's check or money order.

"(e) PROHIBITION ON RECIPROCAL ARRANGEMENTS WITHIN THE HOLDING COMPANY.—No securities affiliate of a financial services holding company shall engage in any transactions or reciprocal arrangements for the purpose of evading any restriction or limitation imposed under this section.

"(f) INTERLOCKING DIRECTORS, MANAGEMENT OFFICIALS, AND EMPLOYEES PROHIBITED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), no securities affiliate controlled by a financial services holding company may allow any director, management official, or employee of such affiliate to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of such holding company or any subsidiary of any such institution.

"(2) SEC AUTHORITY TO EXEMPT FROM PARAGRAPH (1).—

"(A) IN GENERAL.—The Commission may, by order or regulation issued after consultation with the Board of Governors of the Federal Reserve System, grant exemptions from paragraph (1) of this subsection.

"(B) FACTORS TO BE CONSIDERED.—In determining whether to grant an exemption under subparagraph (A), the Commission shall consider—

"(i) the size of the financial services holding companies involved and the size of the depository institution subsidiaries and securities affiliate involved;

"(ii) any burdens imposed by the application of paragraph (1);

"(iii) the safety and soundness of the depository institution subsidiaries and the securities affiliates of such financial services holding companies; and

"(iv) other appropriate factors, including unfair competition in securities activities and the improper exchange of confidential customer information.

"(C) EXCEPTION FOR CERTAIN SMALL FINANCIAL SERVICES HOLDING COMPANIES.—

"(i) IN GENERAL.—The Commission shall grant, by regulation, an exemption under clause (i) to allow a director, management official, or employee of any securities affiliate subsidiary of any financial services holding company the total banking assets of which do not exceed $500,000,000 to serve at the same time as a director, management official, or employee of any insured depository institution subsidiary of the company, or any subsidiary of such institution.

"(ii) ANNUAL ADJUSTMENT FOR INFLATION.—The dollar amount of assets referred to in subparagraph (B)(i) shall be adjusted for inflation by the Commission at the end of each calendar year beginning after December 31, 1991.

"(3) EXCEPTION FOR CERTAIN BACK OFFICE OPERATIONS.—Paragraph (1) shall not apply to any employee, other than an officer or director, employed by the financial services holding company or any subsidiary of such company to perform clerical, accounting, bookkeeping, statistical, or similar functions, including the receipt or transmittal of electronic transfers, if such functions are performed—

"(A) in an office or other facility which is not open to the general public; and

"(B) in a manner which is consistent with the requirements of this section as determined by the Commission after consultation with the Board of Governors of the Federal Reserve System.

"(4) MANAGEMENT OFFICIAL DEFINED.—The term 'management official' includes any officer and any employee with management functions (including a branch manager), any trustee of a business organization under the control of trustees (such as a mutual savings bank), and any person who has a representative or nominee serving in any such capacity.

"(g) AUTHORITY TO MODIFY AND IMPOSE ADDITIONAL SAFEGUARDS.—

"(1) IN GENERAL.—In order to maintain investor protection and to ensure that the activities of any securities affiliate are conducted without the support of insured depository institution affiliates, the Commission—

"(A) may, by regulation or order, adopt additional limitations or restrictions on arranging or accepting any extension of credit or financial assistance or any transaction which has the effect of providing financial assistance by any insured depository institution subsidiary of any financial services holding company to, or for the benefit of, a securities affiliate or any customer of such affiliate; and

"(B) after consulting with and considering the views of the Board of Governors of the Federal Reserve Board, may modify by regulation any limitation on the activities of a securities affiliate of a financial services holding companies contained in this section.

"(2) STANDARDS.—Any authority under paragraph (1)(A) shall be exercised only after taking into account potential adverse effects of any extension of credit or other transaction referred to in such subparagraph, including unfair competition, conflicts of interest, and unsafe banking practices. Any exercise of authority under paragraph (1)(B) to modify any limitation on activities contained in this section shall be exercised only if the Commission, after consulting with and considering the views of the Board of Governors of the Federal Reserve System, concludes that modifying such limitation is necessary to achieve a purpose of this Act, is

consistent with the purposes of this section, the public interest, and the protection of investors, and would not be likely to result in any adverse effects, including unfair competition, conflicts of interest, unsafe banking practices, preservation of the safety and soundness of insured depository institutions, or undue risks to the Federal deposit insurance funds.

"(h) DIVESTITURE FOR CONTINUING COURSE OF MISCONDUCT.—

"(1) NOTICE OF PRELIMINARY DETERMINATION.—

"(A) PRELIMINARY FINDING.—In addition to any other regulatory and supervisory authority of the Commission, if the Commission has reason to believe that a financial services holding company which controls a securities affiliate or such securities affiliate has engaged in a continuing course of conduct involving a violation of this section or regulations prescribed or orders issued by the Commission pursuant to this section, the Commission may make an initial determination that the financial services holding company shall be required to terminate such company's control of either (i) the securities affiliate or (ii) the insured depository institution affiliate, at the option of such company.

"(B) NOTICE.—The Commission shall notify any financial services holding company with respect to which a preliminary determination is made under subparagraph (A) of such determination before the end of the 3-day period beginning on the date on which the determination is made.

"(C) CONTENTS OF NOTICE.—Any notice under subparagraph (B) shall contain a statement of the basis for the Commission's determination.

"(2) HEARING AND FINAL ORDER.—

"(A) REQUEST FOR HEARING.—Any financial services holding company which receives a notice under paragraph (1)(B) of this subsection may request, at any time before the end of the 30-day period beginning on the date of the receipt of such notice, a hearing before the Commission.

"(B) ADJUDICATORY PROCEDURE AND FINAL ORDERS.—Any proceeding under this paragraph shall be conducted in accordance with section 554 of title 5, United States Code, and all other provisions of subchapter II of chapter 5 of such title which are applicable with respect to any adjudication required to be determined on a record after opportunity for agency hearing.

"(3) FAILURE TO REQUEST REVIEW.—If any financial services holding company which receives a notice under paragraph (1)(B) of this subsection fails to request an agency hearing under paragraph (2)(A) of this subsection, such financial services holding company shall be deemed to have consented to the issuance of a final order affirming the initial finding without the necessity of the hearing provided for in this subsection.

"(4) DIVESTMENT WITHIN TIME SPECIFIED IN ORDER.—If any order issued by the Commission under this subsection becomes final and the order affirms the initial finding, the financial services holding company shall make the election and terminate control as required by such order by the end of the period specified in the order.".

SEC. 456. BROKER/DEALER DISCLOSURE WITH RESPECT TO FIDUCIARY PURCHASES IN UNDERWRITTEN SECURITIES.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following new subsection:

"(h) DISCLOSURE WITH RESPECT TO FIDUCIARY PURCHASES IN UNDERWRITTEN SECURITIES.—

"(1) RESTRICTION.—No broker or dealer may purchase, for a customer account in which the broker or dealer, acting as fiduciary, is authorized to determine the securities to be purchased or sold, any security (other than securities issued by an open-end investment company or a unit investment trust) of which such broker or dealer or affiliate thereof is an underwriter or a member of the selling group or which the broker, dealer, or affiliate otherwise places until—

"(A) in the case of an underwriting, 90 days after the end of the underwriting period; or

"(B) in the case of a placement, 90 days after the completion of the placement.

"(2) APPLICATION OF RESTRICTION.—The provisions of paragraph (1) apply whether or not such purchase is authorized by any trust agreement or any other insturment authorizing the broker or dealer to act in a fiduciary capacity, unless such purchase—

"(A) is permitted by State law;

"(B) is explicitly authorized in the trust agreement or other instrument establishing the fiduciary relationship; and

"(C) is effectuated by endorsement, by the creator of the fiduciary relationship, of a separate document that discloses (in accordance with regulations prescribed by the Commission) any conflict of interest that the broker or dealer may have in making such purchase.

"(3) SPECIAL RULE IN CASE OF INCAPACITATED CREATOR OF TRUST.—Notwithstanding any provision of Federal or State law, if the creator of any trust agreement or other instrument referred to in paragraph (2) is incapable of providing the authorization referred to in paragraph (2)(B) or effectuating an endorsement referred to in paragraph (2)(C), every beneficiary of such trust or instrument shall provide such authorization or effectuate such endorsement.".

PART II—BANK-INVESTMENT COMPANY ACTIVITIES

SEC. 461. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANKS.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended—

(1) by redesignating clauses (1), (2), and (3) of the first sentence as clauses (A), (B), and (C), respectively;

(2) by designating the five sentences of such section as paragraphs (1) through (5), respectively;

(3) by adding at the end thereof the following new paragraph:

"(6) Notwithstanding paragraph (1)(A) of this subsection, if a bank described in such paragraph, or an affiliated person thereof, is an affiliated person of the registered management company, such bank may not serve as custodian under this subsection unless permitted by such rules, regulations, or orders as the Commission prescribes consistent with the protection of investors.".

(b) UNIT INVESTMENT TRUSTS.—Section 26(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-26(a)(1)) is amended by inserting after "bank" the following: "that is not an affiliated person of such principal underwriter or depositor and is not an affiliated person of an affiliated person of such principal underwriter or depositor, unless permitted by such rules, regulations, or orders as the Commission prescribes consistent with the protection of investors".

(c) AMENDMENT TO SECTION 36(a) OF THE INVESTMENT COMPANY ACT OF 1940.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(a)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; or"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) as a custodian.".

SEC. 462. AFFILIATED PERSONS AND TRANSACTIONS.

(a) AFFILIATED PERSONS.—Section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3)) is amended—

(1) in subparagraph (E), by striking "thereof; and" and inserting in lieu thereof "thereof;"; and

(2) by striking the period at the end of clause (F) and inserting the following: "; and (G) if such other person is an investment company, any person or class of persons which the Commission by rule, regulation, or order determines to be an affiliated person by reason of having had, at any time since the beginning of the last two completed fiscal years of such investment company, a material business or professional relationship with such investment company or with any person that is a principal underwriter for, or promoter or sponsor of, such investment company or any affiliated person (as described in clauses (A) through (F) of this paragraph) of such company. For purposes of clause (G), a material business or professional relationship means a relationship arising from material extensions of credit or other material borrowing and such other relationships as the Commission, by rule, regulation, or order, determines to be within the intent of this definition, consistent with the public interest and the protection of investors.".

(b) PURCHASES OR ACQUISITIONS DURING UNDERWRITING.—Section 10(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(f)) is amended by—

(1) inserting "(1)" immediately before "a principal underwriter" the first place it appears; and

(2) inserting after "for the issuer" the following: "; or (2) the proceeds of which will be used to retire any part of an indebtedness owed to a bank or an insured depository institution (as such term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) where the bank, an insured depository institution, or an affiliated person thereof is an affiliated person of such registered company".

SEC. 463. PROHIBITION OF CONTROLLING INTEREST IN INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF CONTROLLING INTEREST IN INVESTMENT COMPANY.—If any investment adviser to a registered investment company, or an affiliated person of such investment adviser, also holds shares of the investment company in a fiduciary capacity, that investment adviser or affiliated person may own, directly or indirectly, a controlling interest in such registered investment company only—

"(1) if it passes through to the beneficial owners of the shares, including any person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof, the power to vote the shares of the investment company;

"(2) if it votes the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

"(3) as otherwise permitted under such rules, regulations, or orders as the Commis-

sion may prescribe for the protection of investors.".

SEC. 464. BORROWING FROM AN AFFILIATED BANK.

Section 18(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-18(f)) is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, it shall be unlawful for any registered investment company to borrow from any bank or insured depository institution (as such term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) if such bank, insured depository institution, or any affiliated person thereof is an affiliated person of such company, except that the Commission may, by rule, regulation, or order, permit such borrowing which the Commission finds to be in the public interest and consistent with the protection of investors.".

SEC. 465. INDEPENDENT DIRECTORS.

(a) DEFINITION OF INTERESTED PERSON.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(19)(A)) is amended—

(1) in clause (v), by striking out "1934 or any affiliated person of such a broker or dealer, and" and inserting in lieu thereof: "1934 or any person that, at any time during the last 6 months, has executed any portfolio transactions for, engaged in any principal transactions with, or loaned money to, the investment company or any other investment company having the same investment adviser, principal underwriter, sponsor, or promoter, or any affiliated person of such a broker, dealer, or person,";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any employee of any bank or insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) that acts as custodian or transfer agent for such company, and".

(b) BANK HOLDING COMPANIES.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by striking "bank, except" and inserting in lieu thereof: "bank (together with its subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries), as those terms are defined in the Bank Holding Company Act of 1956, except".

SEC. 466. PROHIBITION AGAINST USE OF A BANK'S NAME BY AN AFFILIATED MUTUAL FUND.

Section 35(d) of the Investment Company Act of 1940 (15 U.S.C. 80a-35(d)) is amended by inserting after the first sentence thereof the following: "It shall be deceptive and misleading for any registered investment company which has as an investment adviser or distributor, a bank, or an insured depository institution (as such term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) or affiliated person thereof, to adopt, as part of the name, title, or logo of such company, or of any security of which it is the issuer, any word or design which is the same as or similar to, or a variation of, the name, title, or logo of such bank or insured depository institution.".

SEC. 467. DEFINITION OF BROKER.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:

"(6) 'Broker' has the same meaning as in the Securities Exchange Act of 1934, but does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.".

SEC. 468. DEFINITION OF DEALER.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as follows:

"(11) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

SEC. 469. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian" and inserting "or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii) is amended to read as follows:

"(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;".

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended by striking the period at the end and inserting the following: ", if—

"(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

"(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

"(i) advertised; or

"(ii) offered for sale to the general public; and

"(C) such fund is not charged any fees or expenses that, when added to any other compensation charged by the bank to a participant account, would exceed the total amount of compensation that would have been charged to such participant account if no assets of the account had been invested in interests in the fund.".

SEC. 470. PURCHASE OF INVESTMENT COMPANY SECURITIES AS FIDUCIARY.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by inserting at the end thereof the following new subsection:

"(k) PURCHASE OF INVESTMENT COMPANY SECURITIES AS FIDUCIARY.—

"(1) IN GENERAL.—If any financial services holding company, bank, insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act), or affiliated person thereof organizes, sponsors, controls, promotes, or provides investment advice to a registered investment company, or underwrites the securities issued by a registered investment company, it shall be unlawful for such financial services holding company, such bank, such insured depository institution, or such affiliated person thereof, or any person delegated investment authority by a bank or an insured depository institution to exercise discretion over fiduciary accounts to purchase as fiduciary any securities issued by such investment company, unless any investment advisory or similar fee attributable to the fiduciary assets invested in securities of such investment company is waived.

"(2) EXCEPTIONS.—The prohibition provided in paragraph (1) shall not apply if—

"(A) such purchase is required by court order;

"(B) in the case of a discretionary account immediately revocable upon notice to the fiduciary, the beneficiary of such account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection; or

"(C) in all other cases, the beneficiary or beneficiaries of the fiduciary account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection and has granted prior, written consent.

"(3) DISCLOSURE RULES.—The Commission shall, after consultation with the appropriate Federal banking agency, prescribe by rule, regulation, or order, the manner, form, and content of the information required to be disclosed under paragraph (2), as the Commission determines to be necessary or appropriate in the public interest and for the protection of investors.".

SEC. 471. COMMON TRUST FUND CONVERSIONS.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-19) is amended by inserting at the end thereof the following new subsection:

"(l) COMMON TRUST FUND CONVERSIONS.—

"(1) IN GENERAL.—It shall be unlawful for any financial services holding company, bank, insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act), or affiliated person thereof to convert any common trust fund or similar fund maintained by it into a registered investment company organized, sponsored, promoted, controlled, or advised, or the securities of which are underwritten, by such a financial services holding company, such bank, such depository institution, or such affiliated person thereof, unless any investment advisory or similar fee owed to any of the foregoing as a result of the discretionary investment of fiduciary assets in securities of such investment company is waived.

"(2) EXCEPTION.—The prohibition provided in paragraph (1) shall not apply where—

"(A) such conversion is required by court order;

"(B) in the case of a discretionary account immediately revocable upon notice to the fiduciary, the beneficiary of such account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection; or

"(C) in all other cases, the beneficiary or beneficiaries of the fiduciary account has first received full disclosure of such information as required pursuant to paragraph (3) of this subsection and has granted prior, written consent.

"(3) DISCLOSURE RULES.—The Commission shall, after consultation with the appropriate Federal banking agency, prescribe by rule, regulation, or order, the manner, form, and content of the information required to be disclosed under paragraph (2), as the Commission determines to be necessary or appropriate in the public interest and for the protection of investors.".

SEC. 472. EXTENSION OF CREDIT FOR PURCHASE OF INVESTMENT COMPANY SECURITIES.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by adding at the end thereof the following new subsection:

"(m) EXTENSIONS OF CREDIT FOR PURCHASES OF SECURITIES.—It shall be unlawful for any financial services holding company, bank, or

insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act) that is, or is an affiliated person of, a person that organizes, sponsors, promotes, controls, or provides investment advice to, a registered open-end investment company or unit investment trust, or underwrites the securities issued by such company or trust, directly or indirectly, to extend credit or to arrange for the extension of credit to any person—

"(1) for the purchase of securities issued by such company or trust; or

"(2) on any security issued by such company or trust, unless (A) the security was purchased by such person pursuant to a plan for the automatic reinvestment of the dividends of such company or trust, or (B) such person has owned the security for more than 30 days or for such other period as the Commission may prescribe by rule or regulation in the public interest and consistent with the protection of investors.".

SEC. 473. ACCESS TO NONPUBLIC INFORMATION.

Section 17 of the Investment Company Act of 1940 (15 U.S.C. 80a-17) is amended by inserting at the end thereof the following new subsection:

"(n) ACCESS TO NONPUBLIC INFORMATION.—

"(1) ACCESS RESTRICTION.—It shall be unlawful for any financial services holding company, bank, insured depository institution (as that term is defined in section 3(c)(2) of the Federal Deposit Insurance Act), or affiliated person thereof, that acts as investment adviser to a registered investment company to provide any employee or agent providing investment advisory services to such investment company with access to any nonpublic information concerning—

"(A) the identity of any customer of such financial services holding company, bank, or insured depository institution; or

"(B) any relationship arising from material extensions of credit or other material borrowings between any customer and such financial services holding company, bank, or insured depository institution.

"(2) RULEMAKING REQUIRED.—The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to ensure compliance with this subsection.".

SEC. 474. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(11)) is amended—

(1) by striking subparagraph (A) and inserting the following: "(A) a bank, except that the term 'investment adviser' includes any bank to the extent that such bank acts as an investment adviser to a registered investment company unless, as permitted by Commission rule, regulation, or order, the bank performs such services through a separately identifiable department or division of the bank, in which case the department or division and not the bank shall be deemed the investment adviser;"; and

(2) by adding at the end thereof the following: "For purposes of clause (A) of this paragraph, the term 'separately identifiable department or division of a bank' means a unit that—

"(i) is under the direct supervision of an officer or officers designated by the directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

"(ii) separately maintains in, or can readily extract from, such unit's own facilities or the facilities of the bank, all of the records relating to such investment adviser activities, and such records are so maintained or otherwise accessible as to permit independent examination thereof.".

SEC. 475. BANK AND INSURANCE POOLED INVESTMENT VEHICLES.

(a) The Securities and Exchange Commission shall examine—

(1) in consultation with the Secretary of Labor, the appropriate treatment of bank collective investment funds and separate accounts under the securities laws and the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.); and

(2) the appropriate treatment of common trust funds under the securities laws.

(b) Not later than one year after the date of enactment of this Act, the Securities and Exchange Commission shall transmit to the Congress a final report which shall contain a detailed statement of findings and conclusions, including recommendations for such administrative and legislative action as the Commission deems advisable.

SEC. 476. DEFINITION OF BROKER.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is amended to read as follows:

"(3) 'Broker' has the same meaning as in the Securities Exchange Act of 1934.".

SEC. 477. DEFINITION OF DEALER.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is amended to read as follows:

"(7) 'Dealer' has the same meaning as in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.".

PART III—EFFECTIVE DATE

SEC. 480. EFFECTIVE DATE.

The amendments made by this chapter shall take effect on January 1, 1993.

CHAPTER 2—ADMINISTRATION OF SECURITIES LAWS WITH RESPECT TO SECURITIES OF DEPOSITORY INSTITUTIONS

PART I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 481. EXEMPTION TO PERMIT TRANSITION TO HOLDING COMPANY STRUCTURES.

Section 3(a)(9) of the Securities Act of 1933 (15 U.S.C. 77c(a)(9)) is amended to read as follows:

"(9) Except with respect to a security exchanged in a case under title 11 of the United States Code—

"(A) any security exchanged by the issuer with its existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange; or

"(B) any security issued or exchanged in connection with a transaction solely involving exchanges or substitutions of securities as part of a reorganization of a corporation into a holding company, if—

"(i) as part of the reorganization, the security holders exchange their securities of the corporation for securities of a newly formed holding company with no significant assets other than securities of the corporation and its existing subsidiaries, and receive securities of the same class evidencing the same proportional share or debt interests in the holding company as they held in the corporation prior to the transaction, except for changes resulting from lawful elimination of fractional interests and the exercise of dissenting shareholder rights under applicable law;

"(ii) the rights and interests of security holders in the holding company are substantially the same as those in the corporation prior to the transaction other than as may be required by law; and

"(iii) the holding company has substantially the same assets and liabilities as the corporation had prior to the transaction.".

PART II—REPORT AND AUDIT REQUIREMENTS

SEC. 487. REPORTS AND AUDIT REQUIREMENTS.

(a) AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 is amended by inserting after section 13 (15 U.S.C. 78m) the following new section:

"FRAUD DETECTION AND DISCLOSURE

"SEC. 13A. (a) AUDIT REQUIREMENTS.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with methods prescribed by the Commission, the following—

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—(1) If, in the course of conducting any audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial statements) has or may have occurred, the accountant shall, in accordance with methods prescribed by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred, and (ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2)(A) If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(i) any such illegal act has a material effect on the financial statements of the issuer,

"(ii) senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to such illegal act, and

"(iii) the failure to take remedial action is reasonably expected to warrant departure from a standard auditor's report, when made, or warrant resignation from the audit engagement,

the independent public accountant shall as soon as practicable and directly report its conclusions to the board of directors.

"(B) An issuer whose board of directors has received a report pursuant to this paragraph shall inform the Commission by notice within one business day of receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished the Commission. If the independent public accountant making such report shall fail to receive a copy of such notice within the required one-business-day period, the independent public accountant shall—

"(i) resign from the engagement; or

"(ii) furnish to the Commission a copy of its report (or the documentation of any oral report given) within the next business day following such failure to receive notice.

"(C) An independent public accountant electing resignation shall, within the one business day following a failure by an issuer to notify the Commission under subparagraph (B), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in any manner to any person for any finding, conclusion, report, or statement made in connection with subsection (b) of this section, including any rules promulgated pursuant thereto, if such finding, conclusion, report, or statement is made in good faith, based upon the independent public accountant's compliance with such subsections or rules (or both). With respect to subsection (b), the limitation on liability provided by this subsection shall not be effective with respect to any finding, conclusion, report, or statement made with respect to fiscal years beginning on or after January 1, 1996.

"(d) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed to limit or otherwise affect the authority of the Commission under this title.

"(e) DEFINITIONS.—As used in this section, the term 'illegal act' means any action or omission to act that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—As to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S-K (17 CFR 229.302(a)) of the Securities and Exchange Commission, the amendments made by subsection (a) of this section shall apply to any annual report for any period beginning on or after January 1, 1992. As to any other registrant, such amendment shall apply for any period beginning on or after January 1, 1993.

Subtitle C—General Provisions

SEC. 491. REPORT ON RESOURCES FOR IMPLEMENTATION.

The Chairman of the Securities and Exchange Commission and the Chairman of the Board of Governors of the Federal Reserve shall, on April 15, 1992, and annually for the 5 succeeding years, each submit to the Congress and the President a report stating, to the best of each such Chairman's knowledge and belief, whether or not their respective agencies have the manpower, funding, and other resources necessary—

(1) to oversee the anticipated financial activities of holding companies, insured depository institutions, and securities affiliates to be overseen by them, respectively, pursuant to this Act (and the amendments made by this Act); and

(2) to enforce the statutes and regulations within their respective jurisdictions that are applicable to such activities.

The report shall identify, in reasonable detail, any deficiencies in such staffing, funding, or other resources, and the steps being taken to correct such deficiencies. Within 30 days after receiving such report, the President shall transmit to the Congress a statement by the President identifying any areas in which the President disagrees with the conclusions of the report.

SEC. 492. STUDY OF EFFECTIVENESS OF CUSTOMER AND INVESTOR PROTECTION FIREWALLS.

(a) STUDY REQUIRED.—The Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall jointly conduct a study of the limitations on activities of financial services holding companies and their affiliates contained in the amendments made by this title.

(b) FACTORS TO CONSIDER.—As part of the study under subsection (a), the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall assess—

(1) the extent that financial services holding companies have engaged in financial activities through securities affiliates;

(2) the policies and procedures used by financial services holding companies and their affiliates to comply with limitations on activities of financial services holding companies and their affiliates described in subsection (a);

(3) the extent of compliance with such limitations;

(4) the burden of compliance with such limitations for the persons subject to such limitations, including foregone business opportunities; and

(5) the burden of examination, investigation, and compliance with such limitations on the Securities and Exchange Commission and the Board of Governors of the Federal Reserve.

(c) REPORT TO CONGRESS.—By January 1, 1995, the Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall jointly submit a report to Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action that such agencies may determine to be appropriate.

SEC. 493. SECURITIES REGISTRATION AND REPORTING STUDY.

(a) STUDY REQUIRED.—The Securities and Exchange Commission and the Board of Governors of the Federal Reserve System shall conduct a study of the continuing need for, and operation of, sections 3(a)(2) and 3(a)(5) of the Securities Act of 1933 and section 12(i) of the Securities Exchange Act of 1934 in the light of changes in the organization and operation of insured depository institutions as a consequence of the enactment of this Act. Such study shall include an analysis of—

(1) any reduction in the number of insured depository institutions to which such section 12(i) applies;

(2) the costs of continuing to have separate administration and enforcement of reporting and disclosure provisions under the authority of such section 12(i);

(3) any deviations in the regulations prescribed to enforce such reporting and disclosure requirements;

(4) any differences in enforcement or accounting practices occurring as a result of the operations of any of such sections; and

(5) such other factors as the Commission and the Board consider to be relevant to the consideration of whether to repeal or significantly amend such sections.

(b) DATE FOR REPORT.—The Commission and the Board shall submit to the Congress a report on the study conducted under subsection (a) not later than January 1, 1995. Such report shall include, in addition to a discussion of each of the issues required to be analyzed under subsection (a), such recommendations for legislation as the Commission and the Board consider appropriate.

TITLE V—FEDERAL DEPOSIT INSURANCE REFORM

Subtitle A—Activities

SEC. 501. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (c), by striking "an insured depository institution" and inserting "any level 1 or level 2 depository institution";

(2) by striking subsection (e) and inserting the following new subsection:

"(e) ADDITIONAL RESTRICTIONS.—The Corporation may, by regulation or order, impose—

"(1) such additional restrictions on the acceptance of brokered deposits by any troubled institution as the Corporation may determine to be appropriate; and

"(2) such restrictions or limitations as the Corporation may determine to be appropriate on the acceptance, renewal, or rollover of funds obtained, directly or indirectly, through any deposit broker by any insured depository institution which the Corporation determines—

"(A) has suffered a material decline in capital so as to constitute a threat to the institution's solvency;

"(B) has knowingly or willfully violated any cease and desist order issued to the institution by the appropriate Federal banking agency, or any written agreement entered into between the institution and such agency, which relates to the safety or soundness of the institution; or

"(C) has failed to comply with any applicable reporting or notification requirements imposed by the Corporation with respect to the acceptance of brokered deposits by an insured depository institution.";

(3) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and inserting after subsection (e) (as amended by paragraph (2) of this section) the following new subsection:

"(f) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution which does not meet the institution's applicable minimum capital requirements, or an employee of any such institution, shall not engage, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on comparable deposits offered by other insured depository institutions in such institution's normal market areas.";

(4) in paragraph (4)(A) of subsection (g) (as so redesignated by paragraph (3) of this subsection) by striking "exclusively"; and

(5) by striking subsection (h) (as so redesignated by paragraph (3) of this subsection) and inserting the following new subsection:

"(h) TROUBLED INSTITUTION DEFINED.—For purposes of this section, the term 'troubled institution' means any insured depository institution which—

"(1) does not meet the minimum capital requirements applicable with respect to such institution;

"(2) based on the most recent report of condition, report of examination, or inspection of such institution, has been assigned a CAMEL composite rating of 4 or 5 under the Uniform Financial Institutions Rating System or an equivalent rating under a comparable system; or

"(3) has been informed in writing by the appropriate Federal banking agency that, on the basis of the institution's financial condition, the institution has been designated a 'troubled institution' for purposes of this section.".

(b) CLERICAL AMENDMENT.—The heading for section 29 of the Federal Deposit Insurance Corporation is amended to read as follows:

"SEC. 29. BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.".

SEC. 502. RISK-BASED ASSESSMENTS.

(a) ASSESSMENT RATES.—

(1) MAXIMUM RATE.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended—

(A) in clause (i), by striking "the greater of 0.15 percent or"; and

(B) by inserting after clause (iii), the following new clause:

"(iv) Until the Corporation establishes a risk-based assessment system pursuant to paragraph (8), the annual assessment rate for Bank Insurance Fund members shall not be less than 0.15 percent.".

(2) USE OF ESTIMATES AND PROJECTIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) USE OF ESTIMATES AND PROJECTIONS.—

"(i) AUTHORITY TO COMPUTE RATES.—The Corporation may make and use such estimates and projections as may be appropriate for computing assessment rates to be paid by Bank Insurance Fund members and Savings Association Insurance Fund members.

"(ii) AUTHORITY TO SET RATES.—The Corporation may—

"(I) set any assessment rate for Bank Insurance Fund members; and

"(II) after December 31, 1997, set any assessment rate for Savings Association Insurance Fund members.".

(3) REVISION OF ASSESSMENT BASE.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) AVERAGE ASSESSMENT BASE.—The average assessment base for any insured depository institution for any semiannual period shall be the average of such depository institution's assessment base for each of the following 2 dates:

"(A) the 1st of the 2 dates falling within such semiannual period for which the depository institution is required to submit reports of condition pursuant to subsection (a)(3) (hereafter in this section referred to as 'reports of condition'); and

"(B) the 2nd of the 2 dates falling within the semiannual period immediately preceding such semiannual period for which the depository institution is required to submit reports of condition.".

(b) RISK-BASED ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by this section and sections 103(b) and 232(b)(2) of this Act) is amended by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (12) and by inserting after paragraph (7) (as added by section 103(b) of this Act) the following new paragraph:

"(8) RISK-BASED ASSESSMENTS.—

"(A) IN GENERAL.—Subject to paragraph (1), the Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system under which the assessment rate determined for each insured depository institution is based on the risk that the institution poses to the appropriate deposit insurance fund.

"(C) PROVISIONS APPLICABLE TO ESTABLISHMENT OF SYSTEM.—In establishing a risk-based assessment system, the Board of Directors may use the following criteria:

"(i) The ratio of capital to assets of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(ii) The activities conducted by the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iii) The assets and liabilities of the insured depository institution, all members of the appropriate deposit insurance fund, or any group of such members.

"(iv) Such other circumstances, conditions, activities or risk factors which the Board of Directors determines to be appropriate.".

(c) REGULATIONS.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe the final regulations required by section 7(b)(8) of the Federal Deposit Insurance Act (as added by subsection (b) of this section).

(2) EFFECTIVE DATE.—Such regulations shall take effect before the end of the 12-month period beginning on the date such regulations are published in final form.

(d) MORTGAGE LENDING SAFEGUARDS.—

(1) ANALYSIS.—Before the end of the 12-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall analyze the impact of such system on the following categories of lending:

(A) Single family mortgages.

(B) Single family mortgages located in low- and moderate-income census tracts.

(C) Nonconforming single family mortgages.

(D) Multifamily mortgages.

(E) Construction lending for—

(i) single family homes;

(ii) single family homes located in low- and moderate-income census tracts;

(iii) nonconforming single family homes; and

(iv) multifamily homes.

(F) Small business loans.

(2) REPORT.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall submit to the Congress a report describing the findings of the analysis required under paragraph (1).

(e) PUBLIC HEARING.—Before the issuance of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall hold at least 1 public hearing regarding that system.

(f) 2-YEAR REVIEW.—Before the end of the 2-year period beginning on the effective date of final regulations implementing the risk-based assessment system established pursuant to the amendments made by subsection (b), the Board of Directors of the Federal Deposit Insurance Corporation shall—

(1) using data collected from examinations of insured depository institutions, analyze the impact of the risk-based assessment system on the categories of lending described in subsection (d)(1); and

(2) submit to the Congress a report on the findings of that analysis, including recommendations for any legislation needed to ensure that the risk-based assessment system does not have an inequitable impact on those categories of lending.

SEC. 503. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting except to the extent that activity is permissible for national banks.

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

"(ii) LOWER INCOME.—The term 'lower income' means income that less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as

quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) SECURITIES AND INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1) and any provision of the Financial Institutions Safety and Consumer Choice Act of 1991, no subsidiary of an insured State bank may engage in securities or insurance underwriting except to the extent such activities are permissible for national banks.

"(B) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act or the Financial Institutions Safety and Consumer Choice Act of 1991 shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) CURRENTLY PERMITTED EQUITY INVESTMENTS.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank.

"(2) EXCEPTION.—Notwithstanding paragraph (1) or any limitation or prohibition otherwise imposed by any provision of law exclusively relating to banks, an insured State bank in a State which permits investments described in paragraph (1) as of September 30, 1991, may invest not more than 10 percent of the bank's total assets in—

"(A) common or preferred stock listed on a national securities exchange (except that not more than 0.5 percent of the bank's total assets may be invested in common or preferred stock of any 1 company); or

"(B) shares of an investment company registered under the Investment Company Act of 1940.

"(3) NOTICE OF PARAGRAPH (2) ACTIVITIES.—An insured State bank may only engage in any investment activity pursuant to paragraph (2) if—

"(A) the insured State bank has filed a 1-time notice with the Corporation of the bank's intent to acquire or retain such investments; and

"(B) pursuant to such notice, the Corporation has not determined, within 60 days of receiving such notice, that acquiring or retaining such investments poses a significant risk to the Bank Insurance Fund.

"(5) DIVESTITURE OF INVESTMENTS.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of such bank.

"(6) FDIC FINDINGS AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Corporation shall make a finding whether such equity investments by insured State banks pose or may pose any significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of such equity investments conducted by any insured State bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1) or to the insurance fund of which such bank is a member.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": *Provided, however,* That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 504. RESTRICTIONS ON REAL ESTATE LENDING.

(a) RESTRICTIONS ON REAL ESTATE LENDING ESTABLISHED.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 39 (as added by section 229 of this Act) the following new section:

"SEC. 40. REAL ESTATE LENDING.

"(a) UNIFORM REGULATIONS.—The appropriate Federal banking agencies shall jointly adopt uniform regulations prescribing standards for loans or extensions of credit by insured depository institutions that are—

"(1) secured by liens on, interests in, or liens on interests in unimproved real estate, or

"(2) made for the purpose of financing the construction of a building or buildings or other improvements to real estate.

"(b) STANDARDS.—

"(1) CRITERIA.—In prescribing standards pursuant to subsection (a) for loans or extensions of credit described in such subsection, the agencies shall consider—

"(A) the risk presented to the Bank Insurance Fund or the Savings Association Insurance Fund, as the case may be, by such loans or extensions of credit;

"(B) the safe and sound operation of insured depository institutions; and

"(C) the availability of credit.

"(2) VARIATIONS PERMITTED.—In prescribing the standards referred to in paragraph (1), the agencies may jointly provide for differentiations among insured depository institutions and among types of loans to such extent and in such manner as may be—

"(A) required by Federal law;

"(B) warranted on the basis of risk to the deposit insurance funds; or

"(C) warranted on the basis of the safety and soundness of the institutions.".

(b) EFFECTIVE DATE.—The regulations prescribed pursuant to the amendment made by subsection (a) shall take effect before the end of the 12-month period beginning on the date of the enactment of this Act.

SEC. 505. CAPITAL STANDARDS AND INTEREST RATE RISK.

(a) IN GENERAL.—The appropriate Federal banking agencies shall develop a system to monitor interest rate risk and to adjust risk-based capital standards to reflect interest rate risk.

(b) IMPLEMENTING REGULATIONS.—In order to implement the system required under subsection (a), the appropriate Federal banking agencies shall prescribe regulations in final form before the end of the 1-year period beginning on the date of the enactment of this Act. Such regulations shall take effect before the end of the 2-year period beginning on such date of enactment.

SEC. 506. TRANSITION RULE.

Section 5(t)(5)(D) of the Home Owners Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by striking "for a national bank," and inserting "for a national bank or if such impermissible activities were commenced after April 12, 1989, and before August 9, 1989, by a savings association with assets of less than $400,000,000 and were made in residential real estate or land held for development as residential real estate,".

SEC. 507. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF BOARD TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) AUTHORITY TO RECOMMEND THAT APPROPRIATE FEDERAL BANKING AGENCY TAKE ENFORCEMENT ACTION.—The Corporation, based on an examination of an insured depository institution by the Corporation or the appropriate Federal banking agency or on other information, may recommend that the appropriate Federal banking agency take any enforcement action authorized under this section or section 7(j) or 18(j) with respect to any insured depository institution or any institution-affiliated party.

"(2) AUTHORITY OF BOARD TO DIRECT ENFORCEMENT ACTION BE TAKEN IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—

"(A) IN GENERAL.—If the appropriate Federal banking agency fails to take the recommended action, or to provide an acceptable plan for addressing the concerns of the Corporation set forth in the Corporation's recommendation, before the end of the 60-day period beginning on the date of the receipt of the formal recommendation from the Corporation, the Board of Directors may direct the Corporation to take such action if the Board of Directors determines that—

"(i) the insured depository institution is in an unsafe or unsound condition;

"(ii) failure to take the recommended action will result in continuance of unsafe or unsound practices in conducting the business of the insured depository institution; or

"(iii) the violation or threatened violation, or threatened practices or omission, or continuation of practices, or omissions may cause, or is likely to cause, a risk of loss to the appropriate insurance fund, or may prejudice the interests of depositors of the institution.

"(B) ENFORCEMENT POWERS.—In the exercise of any authority under this subsection at the direction of the Board of Directors—

"(i) the Corporation shall have the same powers with respect to any insured depository institution and any subsidiary or affiliate of the institution as the appropriate Federal banking agency has with respect to such institution, subsidiary, or affiliate; and

"(ii) the institution and any subsidiary or affiliate of the institution shall have the same duties and obligations with respect to the Corporation as the institution, subsidiary, or affiliate has with respect to the appropriate Federal banking agency.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—Notwithstanding paragraphs (1) and (2), the Board of Directors may direct the Corporation to exercise the Corporation's authority under this subsection before the end of the 60-day period described in paragraph (2)(A) in exigent circumstances after notifying the appropriate Federal banking agency.

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Board of Directors shall, by agreement with the other appropriate Federal banking agencies, establish and publish a description of the exigent circumstances under which the Board of Directors may direct the Corporation to act under this subsection without regard to the 60-day period described in paragraph (2)(A).

"(4) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—Whenever a regional office or regional bank of an appropriate Federal banking agency submits a request for a formal investigation or enforcement action, such regional office or regional bank shall concurrently submit the request to the head of the appropriate Federal banking agency and the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation the status or disposition of all such requests, including the reasons for the appropriate Federal banking agency's decision to either approve or deny all such requests.

"(5) NONDELEGATION.—The authority of the Board of Directors to make any determination or to direct the Corporation to take any action under this subsection may not be delegated.".

Subtitle B—Coverage

SEC. 511. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

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

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred

compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.—

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.— After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following:

"(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 512. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by section 504 of this title) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED.

"Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

SEC. 513. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

"(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and mislead-

ing information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required, shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,

shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

SEC. 521. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

SEC. 522. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

Subtitle D—Credit Unions

SEC. 531. LIQUIDATIONS OF FEDERALLY INSURED STATE CREDIT UNIONS.

(a) AUTHORITY TO LIQUIDATE.—Section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (D); and

(2) by inserting after subparagraph (A) the following new subparagraphs:

"(B) APPOINTMENT OF THE BOARD BY THE BOARD.—Notwithstanding any other provision of this Act, any other Federal law, or the law or constitution of any State, the Board may appoint itself as the liquidating agent of any State credit union insured under this title, and close such credit union, if the Board determines that the credit union is insolvent or bankrupt.

"(C) NOTICE AND APPROVAL OF STATE OFFICIAL.—

"(i) IN GENERAL.—The authority conferred by subparagraph (B) with respect to any State credit union shall be exercised only with the written approval of the State official having jurisdiction over such credit union that the grounds specified for such exercise exist.

"(ii) EXCEPTION.—If the approval of the State official having jurisdiction over any State credit union referred to in clause (i)

has not been received within 30 days of receipt of notice by the State that the Board has determined such grounds exist, and the Board has responded in writing to the State's written reasons, if any, for withholding approval, then the Board may proceed without State approval only by unanimous vote of the Board.".

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (D) of section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)), as so redesignated by subsection (a) of this section, is amended in the first sentence by striking "(b)" and inserting "(j)".

(2) Section 207(a)(1)(A) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)(A)) is amended by striking "himself" and inserting "itself".

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 601. FINDINGS AND PURPOSE.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

SEC. 602. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term 'broker or dealer' means any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceeds the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceeds the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

SEC. 603. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

SEC. 604. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 605. PREEMPTION.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 603 and 604.

SEC. 606. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 611. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 621. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 631. COMMISSION ON THE THRIFT INDUSTRY.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on the Thrift Industry (hereinafter in this section referred to as the "Commission").

(b) MEMBERSHIP OF COMMISSION.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed not later than 90 days after the date of the enactment of this Act. The members shall be appointed as follows:

(A) 2 citizens of the United States, appointed by the President.

(B) 2 citizens of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(C) 1 citizen of the United States, appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(D) 2 citizens of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(E) 1 citizen of the United States, appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(2) ADDITIONAL QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Commission who are appointed under any subparagraph of paragraph (1) other than subparagraph (A) and are not Members of the Congress shall be appointed from among individuals who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(B) LIMITATION.—Of the total number of the members of the Commission who are described in subparagraph (A), not more than 2 such members may be, at the time of any such member's appointment and during any such member's service on the Commission—

(i) a director, officer, or employee of any Federal or State agency or instrumentality with supervisory or regulatory authority over any savings association;

(ii) a director, officer, employee, or agent of any trade association which represents any savings association; and

(iii) a director, officer, employee, or agent of any consumer organizations.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) CHAIRPERSON.—The Commission shall elect a Chairperson from among the members of the Commission.

(5) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(6) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(7) VACANCIES.—No vacancy on the Commission shall affect the powers of the Commission and any such vacancy shall be filled in the manner in which the original appointment was made.

(8) COMPENSATION AND EXPENSES.—

(A) NO BASIC PAY.—Except as provided in subparagraph (B), members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(B) PER DIEM AND TRAVEL EXPENSES.—Members of the Commission who are appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of substance, as authorized by law for persons serving intermittently in the government service to the extent that funds are available for such expenses.

(9) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(c) FUNCTIONS OF COMMISSION.—

(1) CONTENTS AND SPECIFIC RECOMMENDATIONS.—The Commission shall conduct an investigation and evaluation of and shall report and make recommendations on the future status of the thrift industry.

(2) ISSUES TO BE CONSIDERED.—Pursuant to its responsibilities under this section the Commission shall consider the following issues:

(A) The continued economic viability of savings associations, including the impact of the regulatory limits on safety and soundness.

(B) Obstacles and issues related to the conversion of savings associations to banks.

(C) The appropriateness and viability of a separate system of depository institutions dedicated to financing housing production.

(D) The appropriate role of community based financial institutions.

(E) The effectiveness and impact of the Qualified Thrift Lender Test.

(F) The status and role of the regional Federal home loan banks.

(G) The commercial ownership of savings associations.

(H) The merger of the Bank Insurance Fund and Savings Association Insurance Fund within the context of savings association conversion to bank status.

(I) The merger of regulators and regulations.

(J) The service provided to low- and moderate-income consumers and neighborhoods.

(K) The impact on the construction and sale of affordable housing.

(3) FINAL REPORT.—

(A) REPORT REQUIRED.—Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Commission shall submit to the President, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing and Urban Affairs of the Senate, a final report which contains a detailed statement of the findings and conclusions of the Commission, including such recommendations for administrative and legislative action as the Commission determines to be appropriate.

(B) MAJORITY VOTE.—A recommendation may be made by the Commission to the President and to the Congress only if it is adopted by a majority vote of the members of the Commission.

(C) ADDITIONAL, DISSENTING, AND SUPPLEMENTAL VIEWS.—The report required under subparagraph (A) shall contain any additional, dissenting, or supplemental views of any member of the Commission.

(d) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of operations, organizations, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this section. Each such agency or instrumentality shall furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(B) ADMINISTRATIVE SUPPORT SERVICES AND PERSONNEL.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(ii) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section, except that any expenses of the Commission incurred under this clause shall be subject to the limitation on total expenses set forth in subsection (e)(2).

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) CONTRACTING.—The Commission may, to such extent and in such amounts as provided in advance in appropriation Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this section, subject to the limitation on total expenses set forth in subsection (e)(2).

(6) STAFF.—

(A) IN GENERAL.—Subject to such rules and regulations as may be adopted by the Commission and the limitation on total expenses set forth in subsection (e)(2), the Chairperson of the Commission may appoint, terminate, and fix the compensation of an executive director and such additional staff as the Chairperson deems advisable to assist the Commission.

(B) PAY RATES.—Individuals appointed under subparagraph (A) may be paid at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(C) CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE, NOT APPLICABLE.—Appointments may be made under subparagraph (A) without regard to—

(i) provisions of title 5, United States Code, concerning appointments in the competitive service, and

(ii) provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to number, classification, and General Schedule rates.

(7) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee under the Federal Advisory Committee Act.

(e) EXPENSES OF COMMISSION.—

(1) IN GENERAL.—Any expense of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(2) LIMITATION.—The total expenses of the Commission shall not exceed $500,000.

(3) GAO AUDIT.—Prior to the termination of the Commission pursuant to subsection (f), the Comptroller General of the United States shall conduct an audit of the financial books and record of the Commission to determine that the limitation on expenses under paragraph (2) has not been exceeded, and shall include its determination in an opinion to be included in the report of the Commission.

(f) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (c)(3).

SEC. 632. BANK INSURANCE FUND ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is hereby established the Bank Insurance Fund Advisory Committee (hereinafter in this section referred to as the "Committee").

(b) MEMBERSHIP.—The Committee shall consist of 12 members, appointed as follows:

(1) 1 member shall be elected from each administrative district of the Federal Deposit Insurance Corporation (hereinafter in this section referred to as the "Corporation") by banks headquartered in that district from among individuals residing therein who are officers of banks that are Bank Insurance Fund members.

(2) 4 members appointed by the Corporation from among individuals who shall represent the public interest.

(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

(f) AUTHORITY OF THE COMMITTEE.—The Committee may—

(1) select its Chairperson, Vice Chairperson, and Secretary,

(2) adopt methods of procedure,

(3) confer with the Board of Directors on general and specific business conditions and regulatory and other matters affecting banks that are members of the Bank Insurance Fund, and

(4) request information and make recommendations with respect to matters within the jurisdiction of the Corporation and specifically with regard to the sources and uses of funds raised under sections 7 and 14 of the Federal Deposit Insurance Act.

(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

(h) REPORTS.—The Committee shall submit by March 31 of each year a written report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the Committee for the preceding year and contain such recommendations as the Committee considers appropriate.

(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to the Congress, under this section.

(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

SEC. 633. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such bank by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 634. DEPOSITORY INSTITUTIONS REFORM ADVISORY COMMITTEE.

(a) PURPOSE.—The purpose of this section is to establish a committee—

(1) to study the current system of regulation and supervision of financial institutions; and

(2) to make recommendations to—

(A) improve the system's ability to ensure the safe and sound operation of depository institutions; and

(B) minimize losses to the deposit insurance funds.

(b) ESTABLISHMENT.—There is hereby established the Depository Institutions Reform Advisory Committee (hereafter in this section referred to as the "Committee").

(c) MEMBERSHIP.—

(1) APPOINTMENT.—Subject to paragraphs (2) and (3), the Committee shall consist of 16 members as follows:

(A) 4 members of the public appointed by the Speaker of the House of Representatives.

(B) 4 members of the public appointed by the Majority Leader of the Senate.

(C) 8 members of the public appointed by the President, 1 of whom shall be designated by the President to be the Chairperson of the Committee.

(2) QUALIFICATION OF MEMBERS.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), members of the Committee shall be appointed from among individuals who are citizens of the United States and are specially qualified to serve on the Committee by virtue of their education, training, or experience with the depository institutions industry.

(B) INELIGIBILITY OF INDIVIDUALS HOLDING CERTAIN POSITIONS.—No individual may be appointed to the Committee who—

(i) holds any position to which such individual was appointed by the President; or

(ii) is an institution-affiliated party (as defined in section 3 of the Federal Depository Insurance Act) with respect to any depository institution.

(C) CONSUMERS AND ACADEMICS.—At least 2 of the members appointed under paragraph (1)(A), 2 of the members appointed under paragraph (1)(B), and 2 of the members appointed under paragraph (1)(C) shall be appointed from among individuals who are representatives of consumer organizations or who hold teaching positions at postsecondary educational institutions.

(3) POLITICAL AFFILIATION.—Not more than 8 members of the Committee shall be members of the same political party.

(4) PAY AND EXPENSES.—Members of the Committee shall serve without pay but each member of the Committee shall be reimbursed for expenses incurred in connection with attendance of such members at meetings of the Committee.

(5) MEETINGS.—The Committee shall meet, not less frequently than monthly, at the call of the Chairperson or a majority of the members.

(d) RESOURCES AND STAFF.—The Federal Deposit Insurance Corporation shall provide the Committee with all resources, including staff, offices, or equipment, as the Committee may require to carry out its duties.

(e) INFORMATION.—

(1) IN GENERAL.—The Committee may secure directly from any appropriate Federal banking agency or the Securities and Exchange Commission any information that the Committee deems necessary to enable it to carry out this section.

(2) AVAILABILITY UPON REQUEST OF CHAIRPERSON.—Upon request of the Chairperson of the Committee, the head of an appropriate Federal banking agency or of the Securities and Exchange Commission shall furnish the information to the Committee unless specifically prohibited by law.

(f) CONFLICT-OF-INTEREST AND CONFIDENTIALITY GUIDELINES.—The Committee shall prescribe guidelines to avoid—

(1) conflicts of interest with respect to the disclosure to, and use or release by, members of the Committee of any information relating to any depository or other financial institution or appropriate Federal banking agency; and

(2) the release of nonpublic information relating to depository or other financial institutions to which members may have access.

(g) DEFINITIONS.—For purposes of this section, any term used in this section which is defined in section 3 of the Federal Deposit Insurance Act shall have the meaning given such term in such section, except that the term "depository institution" includes any depository institution holding company (as defined in such section).

(h) DUTIES OF THE COMMITTEE.—

(1) IN GENERAL.—The Committee shall study and include in the report required under subsection (i) recommendations for changes in the regulation and supervision of depository institutions in order to ensure their safety and soundness and to minimize losses to the deposit insurance funds.

(2) EVALUATION OF SPECIFIC FACTORS.—The study shall include an evaluation of the ability of the appropriate Federal banking agencies to—

(A) identify risks associated with new or existing complex activities or products of depository institutions;

(B) identify and monitor transactions between a depository institution and its affiliates, and to assess and control potential risks arising from these transactions;

(C) attract and retain supervisory, examiner, and legal staff with the qualifications, training, and experience necessary to ensure safe and sound depository institutions;

(D) detect and control conflicts of interest arising in depository institutions;

(E) anticipate and rapidly respond to changes in the depository institutions environment; and

(F) improve operations by using private contractors to assist with examinations or other aspects of supervision.

(i) FINAL REPORT.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Committee shall submit to the President, each House of Congress, each appropriate Federal banking agency, and the Securities and Exchange Commission a report containing the findings of the Committee and such recommendations as the Committee may determine to be appropriate, including any specific proposal for legislative or administrative action.

(j) TERMINATION.—The Committee shall cease to exist as of the end of the 60-day period beginning on the date on which the Committee submits the final report under subsection (i).

SEC. 635. REPORT ON GOVERNMENT CHECK CASHING.

Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report on the effects, on insured depository institutions that serve client bases that have a disproportionately high number of persons that receive Federal Government checks, of requiring those institutions to cash those checks.

SEC. 636. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsection:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

Subtitle E—Utilization of Private Sector

SEC. 641. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable and efficient.".

SEC. 642. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) The total amounts expended on employee wages, salaries, and overhead, during the reporting period which are attributable to—

"(i) contracting with, supervising, or reviewing the performance of private contractors, or

"(ii) managing or disposing of such assets.

"(E) A statement of the total amount expended on private contractors for the management of such assets.

"(F) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

SEC. 643. REQUIREMENT TO MINIMIZE PAYMENTS FOR LEGAL SERVICES.

The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall

adopt and follow procedures with respect to contracts for legal, accounting, and investment banking services to assure that, to the extent reasonably practicable—

(1) the costs of such services are minimized, and

(2) there is a sufficiently representative distribution—

(A) geographically, and

(B) in terms of size of firms providing such service and contracts awarded for such services.

Subtitle F—Emergency Assistance for Rhode Island

SEC. 651. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the loan collateral conditions established under paragraph (2) and the terms and conditions established in accordance with paragraph (3), the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount of any loan for which the guarantee is sought is fully secured as follows:

(A) Any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the enactment of this Act for the purpose described in paragraph (1) is irrevocably dedicated to the payment of the principal of, and the interest on, the loan for which the guarantee is sought.

(B) Assets held or controlled by the Depositors Economic Protection Corporation, and the proceeds from the sale of such assets, are irrevocably pledged as collateral in an amount sufficient to fully amortize any portion of the loan which is not secured under subparagraph (A).

(3) ADDITIONAL TERMS AND CONDITIONS.—Except as provided in paragraph (2), the terms and conditions for any loan guarantee under paragraph (1) shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

(c) DESIGNATION OF PROVISIONS AS EMERGENCY REQUIREMENTS.—Each provision of this section is hereby designated as an emergency requirement for purposes of sections 252(e) and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the President is hereby deemed to have designated each such provision as an emergency requirement for purposes of such section.

Subtitle G—Qualified Thrift Lender Test Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 662. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 663. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 664. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 665. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 666. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

The 2d sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended by striking "30 percent" and inserting "35 percent".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 671. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Establishment of Capital Standard Requirement

SEC. 681. CAPITAL STANDARDS.

Federal banking regulatory agencies shall establish minimum capital standards at least equal to the minimum capital requirements under all international accords to which the United States has agreed on capital standards for financial institutions.

Subtitle J—References in Federal Law

SEC. 691. REFERENCES IN FEDERAL LAW.

(a) BANK HOLDING COMPANY.—After December 31, 1992, any reference in any Federal law to a bank holding company shall be deemed to be a reference to a financial services holding company.

(b) BANK HOLDING COMPANY ACT OF 1956.—Any reference in any Federal law to the Bank Holding Company Act of 1956 shall be deemed to be a reference to the Diversified and Financial Services Holding Company Act of 1991.

(c) ACT NOT TO AFFECT APPLICATION OF INTERNAL REVENUE CODE.—Subsections (a) and (b) shall not apply for purposes of the Internal Revenue Code of 1986, and any reference in such Code to a bank holding company shall not include any bank holding company—

(1) which (directly or indirectly) engages in any activity or holds shares in any company if the engaging in such activity or holding of such shares would not be permitted under the Bank Holding Company Act of 1956 as in effect on the day before the date of the enactment of this Act, or

(2) any shares in which are held by any person if the holding of such shares by such person would not be permitted under such Act as so in effect.

SEC. 692. SEVERABILITY.

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

The CHAIRMAN pro tempore. No amendment to said substitute is in order except those amendments printed in House Report 102-281. Said amendments shall be considered in the order and manner specified in said report and shall be considered as read. Debate time specified for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto. Said amendments shall not be subject to amendment, except as specified in House Report 102-281.

Where House Report 102-281 specifies consideration of amendments en bloc, said amendments shall be so considered and shall not be subject to a demand for a division of the question.

It is in order at any time for the chairman of the Committee on Banking, Finance and Urban Affairs to offer amendments en bloc consisting of amendments, and modifications in the text of any amendments which are germane thereto, printed in House Report 102-281. Said amendments en bloc shall be considered as read and shall be debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. The original proponents of the amendments en bloc shall have permission to insert statements in the CONGRESSIONAL RECORD immediately before disposition of the amendments en bloc. Said amendments en bloc shall not be subject to amendment or to a demand for a division of the question.

If amendments numbered 8 and 9 are both adopted, only the latter amendment adopted will be considered as finally adopted and reported back to the House.

The Chair will announce the number of the amendment made in order by House Resolution 266 in order to give notice to the Committee of the Whole as to the order of recognition.

AMENDMENTS EN BLOC OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The CHAIRMAN pro tempore. The Clerk will designate the amendments en bloc.

The text of the amendments en bloc is as follows:

Amendments en bloc offered by Mr. GONZALEZ:

1. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE LA FALCE OF NEW YORK OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 73, after line 6, insert the following new subparagraph:

"(F) TREATMENT OF PROFITABLE INSTITUTIONS.—Notwithstanding the provisions of subparagraph (D), the appropriate Federal banking agency may continue to take such other action which the agency determines to be appropriate in lieu of such appointment if the agency determines, with the concurrence of the Corporation, that—

"(i) the insured depository institution is in compliance with an approved capital restoration plan which requires consistent improvement in its capital position;

"(2) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable; and

"(3) the insured depository institution is reducing the ratio of nonperforming assets to total assets.".

16. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE JOHNSON OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 105, line 25, before the period insert the following: "or that such person complied with the applicable laws, rules, supervisory directives, and orders, and did not engage in any insider dealing, speculative practice, or other abusive activity while serving on the board of directors or any other management position in the institution."

17. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE KANJORSKI OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 108, after line 2, insert the following new subtitle (and conform the table of contents accordingly):

Subtitle G—Management and Conflict of Interest Reforms

SEC. 161. SHORT TITLE.

This subtitle may be cited as the "Management and Conflict of Interest Reform Amendments of 1991".

SEC. 162. DEFINITIONS.

(a) Section 202 of the Depository Institution Management Interlocks Act (12 U.S.C. 3201) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) the term 'depository institution' means a commercial bank, a foreign bank, a savings bank, a trust company, a savings association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;";

(2) in paragraph (5), by striking "and";

(3) in paragraph (6), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(7) the term 'outside counsel' means any individual who is not a full-time employee of the depository institution or depository holding company and who receives compensation, either directly or through a law firm, partnership, or corporation, for legal services or advice rendered to the depository institution or depository holding company or any of its subsidiaries, affiliates, or holding companies;

"(8) the term 'outside accountant' means any individual who is not a full-time employee of the depository institution or depository holding company and who receives compensation, either directly or through an accounting firm, partnership, or corporation, for accounting services or advice rendered to the depository institution or any of its subsidiaries, affiliates, or holding companies;

"(9) the term 'outside director' means an individual who is a member of the board of directors who is not an employee or officer with management functions of either the depository institution or depository holding company, or any of its subsidiaries, affiliates, or holding companies; and

"(10) the term 'control' has the meaning given to such term in section 2 of the Bank Holding Company Act of 1956 for bank holding companies and section 10(a)(2) of the Home Owners' Loan Act for savings and loan holding companies.".

(b) Section 207(2) of the Depository Institution Management Interlocks Act (12 U.S.C. 3206(2)) is amended to read as follows:

"(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, foreign banks, and bank holding companies,".

SEC. 163. DUAL SERVICE OF OUTSIDE COUNSEL AND ACCOUNTANTS ON BOARD OF DIRECTORS PROHIBITED.

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.) is amended by adding at the end the following new section:

"SEC. 211. DUAL SERVICE OF OUTSIDE COUNSEL AND ACCOUNTANTS ON BOARD OF DIRECTORS PROHIBITED.

"No individual who is an outside counsel or outside accountant of a depository institution or a depository holding company may serve as a member of the board of directors of that depository institution or depository holding company or any of its subsidiaries, affiliates, or holding companies.".

SEC. 164. OWNERSHIP DISCLOSURES TO BOARD OF DIRECTORS.

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.) (as amended by this subtitle) is amended by adding at the end the following new section:

"SEC. 212. OWNERSHIP DISCLOSURES TO BOARD OF DIRECTORS.

"Not less than once each calendar year each depository institution and depository holding company shall provide to each member of its board of directors, and to each member of the board of directors of any depository institution or depository holding company it controls, a list of the names and principal places of business of each individual or company which directly or indirectly owns, controls, or has power to vote 5 percent or more of any class of voting securities of the depository institution or depository holding company, and such other information as the appropriate Federal depository institutions regulatory agency shall prescribe by regulation.".

SEC. 165. CHANGE IN CONTROL DISCLOSURES TO BOARD OF DIRECTORS.

The Depository Institute Management Interlocks Act (12 U.S.C. 3201 et seq.) (as amended by this subtitle) is amended by adding at the end the following new section:

"SEC. 213. CHANGE IN CONTROL DISCLOSURES TO BOARD OF DIRECTORS.

"Each depository institution and depository holding company shall provide to each member of its board of directors, and to each member of the board of directors of any depository institution or depository holding company it controls, with notice of any proposed change in control of the parent depository institution or depository holding company. Such notice shall contain such information as the appropriate Federal depository institutions regulatory agency of the parent depository institution or depository holding company shall prescribe by regulation.".

SEC. 166. BOARD OF DIRECTORS CONTROL BY OUTSIDE DIRECTORS.

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 et seq.) (as amended by this subtitle) is amended by adding at the end the following new section;

"SEC. 214. BOARD OF DIRECTORS CONTROL BY OUTSIDE DIRECTORS.

"A majority of the voting members of the board of directors of each depository institution and each depository holding company shall be outside directors.".

18. THE AMENDMENTS EN BLOC TO BE OFFERED BY REPRESENTATIVE RIDGE OF PENNSYLVANIA OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 164, beginning on line 21, strike, subparagraphs (A) and (B) through page 165, line 18 and insert the following:

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

19. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE FRANK OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 477, after line 25, insert the following new subtitle:

Subtitle E—FDIC Property Disposition

SEC. 541. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 41 (as added by section 512 of this Act) the following new section:

"SEC. 42. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 41 (as added by

section 512 of this Act) the following new section:

"SEC. 42. FDIC AFFORDABLE HOUSING PROGRAM.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) LIMITATIONS ON APPLICABILITY OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning 180 days after the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991.

"(2) FISCAL LIMITATIONS.—

"(A) IN GENERAL.—During the period in which the provisions of this section are effective (as provided in paragraph (1)), such provisions shall apply only during the period beginning on the commencement date under subparagraph (B) and ending (if applicable) on the termination date under subparagraph (C).

"(B) COMMENCEMENT DATE.—For purposes of this paragraph, the commencement date shall be the day during the period referred to in paragraph (1) on which sufficient amounts are first determined to be available to compensate the Corporation for any losses resulting from the sale of properties under this section. For purposes of this subparagraph, such losses shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the period in which the program under this section is effective. If the determination under the first sentence of this subparagraph is made before the commencement of the period referred to in paragraph (1), the commencement date shall be considered to be the first day of the period referred to in paragraph (1).

"(C) TERMINATION DATE.—For purposes of this paragraph, the termination date shall be the day during the period referred to in paragraph (1) on which the sum of the affordable housing discounts for eligible residential properties transferred under this section by the Corporation first exceeds $30,000,000, as determined by the Corporation.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'affordable housing discount' means, with respect to any eligible residential property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section; and

"(ii) the term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws, as determined by the Corporation taking into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act and the prices of other properties sold under similar programs.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property that is subject to an agreement entered into by the Corporation before the date of the enactment of the Financial Institutions Safety and Consumer Choice Act of 1991 providing for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL SINGLE FAMILY PROPERTIES TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households; or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of such property, or (ii) make the property available for purchase by such families.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families.

"(3) RECAPTURE OF PROFITS FROM RESALE OF SINGLE FAMILY PROPERTIES.—Except as provided in paragraph (5), if any eligible single family property sold to a qualifying household is resold by the qualifying household during the 2-year period beginning upon initial acquisition by the household, the Corporation shall recapture the percentage provided in paragraph (4) of the amount of any proceeds from the resale that exceeds the sum of (A) the original sale price for the acquisition of the property of the qualifying household, (B) the costs of any improvements to the property made after the date of the acquisition, and (C) any closing costs in connection with the acquisition.

"(4) PERCENTAGE OF PROFIT RECAPTURED.—The percentage of excess proceeds recaptured under paragraph (3) shall be as follows:

"(A) FIRST YEAR.—In the case of any resale occurring during the 1-year period beginning upon initial acquisition by the qualifying household, 75 percent of the amount of such excess proceeds.

"(B) SECOND YEAR.—In the case of any resale occurring during the 1-year period beginning 1 year after initial acquisition by the qualifying household, 50 percent of the amount of such excess proceeds.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation may in its discretion waive the applicability to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (o)(12)(B) and (C). The Corporation may grant such a waiver only for good cause shown, including any necessary relocation of the qualifying household.".

"(6) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, and (C) the resident household intends to occupy the property as a principal residence.".

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1), or until the Corporation determines that a property is ready for sale, whichever occurs first. The notice of serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon determining that a property is ready for sale, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE BUILDING PROPERTIES.—With respect to any property consisting of a single building or structure purchased by a qualifying multifamily purchaser under paragraph (4)—

"(i) not less than 35 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located; and

"(ii) not less than 20 percent of the dwelling units in the building or structure shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTISTRUCTURE PURCHASES.—With respect to any purchase under paragraph (4) by a qualifying multifamily purchaser property involving a property consisting of more than one building or structure or involving more than one property as a part of the same negotiation—

"(i) not less than 40 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located;

"(ii) not less than 20 percent of the aggregate number of dwelling units in all of the buildings or structures of the properties shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and

"(iii) not less than 10 percent of the dwelling units in each separate building or structure of each property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the building or structure in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of the meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements applicable to the property under paragraph (7), if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTISTRUCTURE PURCHASES.—The Corporation shall give preference, among substantially similar offers made under subsection (d)(4) to purchase an eligible multifamily housing property consisting of more than one building or to purchase more than one such property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate building or structure of each such property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of eligible residential properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent and not greater than 115 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation may sell eligible single family property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price. The Corporation shall establish a market value for each eligible multifamily housing property and shall sell such property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of the property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7).

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c), (f), and (g)(1) shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating

jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—During the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by such families. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or (ii) made available for purchase by such families. The restriction described clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(i) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(j) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that during the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsection shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—Any eligible single family property sold under this subsection shall be made available for occupancy by and maintained as affordable for low-income families for the remaining useful life of the property, or made available for purchase by such families. Eligible multifamily housing properties sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7).

"(l) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c) and (d) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(m) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office.

"(n) REPORT.—In the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(o) DEFINITIONS.—For purposes of this section:

"(1) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(2) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(3) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high cost areas).

"(4) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase of such amount for high-cost areas).

"(5) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(6) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (without regard to any increase of such amount for high-cost areas).

"(7) INCOME.—The term 'income' shall have the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as

determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5));

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for not less than 12 months (except as provided in subsection (c)(5)); and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

"(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

Page 5, in the table of contents, strike the item relating to section 524 and insert the following new items:

Sec. 531. Liquidations of federally insured State credit unions.

SUBTITLE E—FDIC PROPERTY DISPOSITION

Sec. 541. FDIC affordable housing program.

---

23. THE AMENDMENT TO BE OFFERED BY REPRESENTATIVE CAMPBELL OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 447, line 7, strike the closing quotation marks and the second period.

Page 447, after line 7, insert the following new paragraph:

"(3) LOAN EVALUATION STANDARD.—No Federal financial regulatory agency shall adversely evaluate an investment or a loan made by a federally insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property.".

---

21. THE AMENDMENTS EN BLOC TO BE OFFERED BY REPRESENTATIVE REED OF RHODE ISLAND OR HIS DESIGNEE, DEBATABLE FOR NOT TO EXCEED 10 MINUTES

Page 515, beginning on line 15, strike "Subject to the loan collateral conditions established under paragraph (2) and the terms and conditions established in accordance with paragraph (3)" and insert "Subject to the terms and conditions established by or under this subsection".

Page 516, strike line 10 and all that follows through page 517, line 8, and insert the following:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the lien and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan, is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and interest, on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year, are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless—

(A) each such proposed loan has received from a nationally recognized statistical rating organization a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of either the highest investment grade rating or not less than 1 less than the highest investment grade rating; or

(B) if no such rating is issued, the Secretary determines that the collateral securing the guarantee is sufficient so as to pose no risk of loss to the Federal government.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 10 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 5 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

The CHAIRMAN (Mr. CARR). The gentleman from Texas [Mr. GONZALEZ] is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Chairman, I yield myself such time as I may consume.

I would like to offer seven amendments en bloc which have been cleared

by the minority and which I believe are not controversial.

From title I, amendment No. 1 offered by Mr. LAFALCE, to provide flexibility in the requirement that regulators close an institution when it reaches the 2-percent capital level. Also in title I, amendment No. 16 by Mr. JOHNSON of Texas to allow FDIC to waive the requirement that directors of a troubled bank be removed. And finally from title I, amendment No. 17 by Mr. KANJORSKI to prohibit individuals whose employment depends on the bank from also serving as bank directors.

From title II, amendment No. 18 offered by Mr. RIDGE to clarify his Bank Enterprise Act proposal.

From title V, amendment No. 19 offered by Mr. FRANK to create an affordable housing program for FDIC. Also from title V, amendment No. 23 by Mr. CAMPBELL of California to prohibit bank examiners from discriminating against real estate loans.

From title VI, amendment No. 21 offered by Mr. REED of Rhode Island to change the loan guarantees in this bill so that they are no longer direct-spending provisions.

These amendments improve this legislation and I urge their adoption.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] is recognized for 10 minutes.

Mr. WYLIE. Mr. Chairman, we on this side accept the en bloc amendments, and want to commend the chairman for his cooperation in submitting the amendments to us ahead of time. We did have three amendments which we regarded as controversial, which the chairman agreed to delete from the en bloc amendments.

As has been mentioned, there are seven of the so-called en bloc amendments. One by the gentleman from Texas [Mr. JOHNSON] was alluded to and would clarify the FDIC's waiver authority in cases where H.R. 6 requires that a board of directors must be removed after the FDIC grants a bank assistance. This clarifies a provision which the chairman and I put in the banking bill in its original form and I think from that standpoint is procedural.

I also support the amendment of the gentleman from Pennsylvania [Mr. KANJORSKI] which remedies a serious problem that we discovered in the BCCI hearings. During these hearings, we learned a tremendous amount of conflict of interest existed between the lawyers for the bank in their role as directors of the bank. What this amendment would do is to say that a person cannot serve both as counsel and as a member of the board of directors.

The Ridge amendment would correct a pay-go problem with the Bank Enterprise Act.

The gentleman from California [Mr. CAMPBELL] and the gentleman from Virginia [Mr. MORAN] both have separate amendments dealing with the credit crunch, and I am concerned that the credit crunch is a real problem. I think what their amendments do, in effect, is to express the will of Congress that we are concerned about as it applies to real estate evaluations. I think basically that is what it does.

The LaFalce amendment, we had a chance to look at. It is a good amendment and it gives the regulators greater flexibility in dealing with problem institutions. I might say that the administration just indicated support for this amendment. I commend the gentleman for offering it.

Lastly, the gentleman from Rhode Island [Mr. REED] and the gentleman from Rhode Island [Mr. MACHTLEY] have an amendment to try to solve the problems concerning Federal assistance for the Rhode Island deposit insurance fund. The collapse of this fund has caused great pain in that State. This amendment corrects some administrative concerns early on and allows for a loan guarantee arrangement which we think is desirable.

So with that, Mr. Chairman, I have no objection to the en bloc amendments.

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

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE] for purposes of a colloquy.

Mr. LAFALCE. Mr. Chairman, I sincerely appreciate the support of the gentleman from Texas for my amendment and the support of the gentleman from Ohio [Mr. WYLIE] also on the early intervention issue.

It is my understanding that my amendment is incorporated in the en bloc amendments with the technical changes that we have agreed to.

My amendment is designed to achieve two important critical goals: First, to save the taxpayer money by giving the regulators discretion not to close institutions when options less expensive to the taxpayer are available, and second, to closely circumscribe regulatory discretion to ensure that only institutions that are viable are permitted to remain open.

Mr. Chairman, before I yield, if I may on a personal note unrelated to the amendment, I would like to take this opportunity to thank the gentleman from Texas for his efforts to craft a compromise, not just on this amendment, but on the whole issue of banking reform. No compromise will ever please everyone, but the very fact of any compromise in this contentious issue is an achievement in itself. I know the gentleman made his best effort.

Mr. GONZALEZ. Mr. Chairman, if the gentleman will yield, I want to thank the gentleman very sincerely. The gentleman is the chairman of the Committee on Small Business, so he knows whereof he speaks when he talks about crafting compromises.

I would like to say with reference to this that I want to thank the gentleman, too, for getting together with the staffs and ironing out small technical differences in our requirement for prompt action by the regulators.

I think what we have is a very much-improved version of title I.

Mr. LAFALCE. Mr. Chairman, I thank the gentleman.

Mr. WYLIE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I neglected to mention in the list amendment No. 19 offered by the gentleman from Massachusetts [Mr. FRANK] and myself, which establishes an affordable housing disposition program for the FDIC, similar to that of the RTC. This creates a demonstration program for 3 years and it caps at $30 million the amount of money that the FDIC can lose on the sale of property under the programs during that period to time. I think that is an important amendment. It is also included in the en bloc amendments, and I did not hear the chairman mention it. I wanted to be sure that it was mentioned.

I would like to clarify several aspects of the proposed FDIC Affordable Housing Disposition Program. As I have already discussed, this program would sunset after 3 years, and would have a cost limitation of $30 million for the 3 years. The $30 million would be the limit on the amount of losses which could be realized by the FDIC on the sale of properties in the program. A loss would be assessed on the difference between the realizable disposition value of a property and the final sales price on the property. Realizable disposition value would be, as determined by the FDIC, the estimated sale price on a property that the FDIC could reasonably be expected to obtain if the property were sold outside the program. It is the intent of this amendment that the FDIC use the appraised value of a property as the realizable disposition value of a property unless the FDIC can develop a more accurate method of valuing properties in the program. Moreover, part of the assessment of losses should include any special holding costs attributable to the Affordable Housing Program, such as where a property is held for a longer period to time than would occur if the property were sold outside the program. It is also not expected that the FDIC should have to develop any valuation system which is overly administratively burdensome and costly.

Moreover, I believe there may be some technical issues concerning how certain requirements of this program will operate in conjunction with certain requirements of the HOPE Single Family and HOPE Multifamily Housing Programs. I would like to facilitate the purchase of eligible properties under the FDIC Affordable Housing Program to the maximum extent possible for use in conjunction with these HOPE programs. I hope to address these technical issues at conference.

For the information of my colleagues, the FDIC Affordable Housing Program would be

similar to the RTC Affordable Housing Program with the following significant characteristics:

First, single-family and multifamily properties. Eligible single-family and multifamily properties could not exceed the appraised value limit set for properties in the RTC Affordable Housing Program. This limit corresponds to the FHA single-family and multifamily insurance limits—without regard to high cost areas. For example, the appraised value of single-family properties in the FDIC Affordable Housing Program could not exceed $67,500.

Second, limitation on the program. The FDIC Affordable Housing Program would sunset after 3 years. The program would have a cost limitation of $30 million for the 3 years. This means the FDIC Affordable Housing Program will cease after 3 years or when the $30 million cap is reached, whichever occurs first. The $30 million would be the limit on the amount of losses which could be realized by the FDIC on the sale of properties in the program. A loss would be assessed on the difference between the realizable disposition value of a property and the final sales price on the property. Realizable disposition value would be, as determined by the FDIC, the estimated sale price of a property that the FDIC could reasonably be expected to obtain if the property were sold outside the program. It is intended that the FDIC use the appraised value of a property as the realizable disposition value of a property until a better valuation system is developed.

Third, implementation date. The FDIC would be required to implement the Affordable Housing Program within 6 months of enactment, subject to a determination that there are sufficient funds to compensate the FDIC for any losses resulting from the sale of properties under this program.

Fourth, right of first refusal. The right of first refusal in the single family component of the program would be 6 months, as compared with the 3 month right of first refusal under the single family component of the RTC Affordable Housing Program.

Fifth, multifamily properties—aggregation rule. This amendment would also revise the RTC aggregation rule for purposes of the FDIC Affordable Housing Program. Aggregation means that the purchaser of more than one multifamily project can aggregate the low-income occupancy requirements among the buildings purchased, as opposed to meeting the requirements on a building-by-building basis. This amendment would, among other things, provide a preference for purchasers who do not aggregate, and require for all multistructure purchases that at least 10 percent of the dwelling units in each building be reserved for low-income families.

Sixth, bulk transactions under HOME. This amendment would provide for bulk transactions to participating jurisdictions under the HOME Program.

Seventh, liability. This amendment would provide that the FDIC is not liable to any depositor, creditor, or shareholder of a failed institution in receivership, or claimant against the institution, because the disposition of assets of the institution under this amendment affects the amount of return from the assets.

□ 1400

Mr. GONZALEZ. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. KANJORSKI] for the purposes of a colloquy.

Mr. KANJORSKI. I thank the chairman for yielding this time to me; and since our time on the en bloc amendment is severely limited, I will insert the full text of my statement on my amendment at the end of these remarks.

Mr. Chairman, I would like to congratulate the gentleman from Texas [Mr. GONZALEZ] and the gentleman from Ohio [Mr. WYLIE] for recognizing that the BCCI hearings held by the committee and put forth by the gentleman from Texas were done for two purposes: First, to find what happened, and, second, to see what we could do to further legislation to ensure that this does not happen again.

This amendment we have put together accomplishes three things. First, it recognizes that activities such as those at BCCI and First American occurred because there were gross, monumental conflicts of interest, where attorneys were not only representing the bank in their capacity as private individual attorneys to give advice, but they were also members of the board and in fact chairman and president of First American. It raised the question of what information would flow to the stockholders and to the regulators and to the other directors of the board that these individuals picked up in their private representation of the real owners of BCCI.

We close that loophole by declaring that to be a conflict of interest and barring outside legal counsel and outside accountants from serving on boards. We close the loophole, and do so for all banks and all financial institutions, including foreign banks doing business in the United States.

The second problem we resolve with this amendment is that never again will a board of directors appear before a congressional committee as First American's board did and tell us that they do not know who owns their bank. It was almost insulting to the committee, to the American people and even to those members of that board of directors, that they did not know who owned them, who put them there, who controlled the bank, because there was no information or disclosure required under our laws to indicate who the actual owners of the financial institution or their various holding companies are.

The amendment closes that loophole.

Third and finally, we disallow insider control of banks in this country. No longer will the majority of a board of directors be allowed to be management employees of the bank whose judgment is affected by their employment status. Instead we require that a majority of the board of directors be made up of outside directors.

These are just a few of the lessons we learned from our hearings on BCCI, but they are among the most important lessons of that experience.

I congratulate the ranking minority member, the gentleman from Ohio [Mr. WYLIE] for seizing upon this amendment and agreeing that it will close these loopholes. I congratulate my chairman, the gentleman from Texas [Mr. GONZALEZ] for a job well done in holding the BCCI hearings.

Mr. Chairman, I urge my colleagues to support the en bloc amendments because by adopting them we can truly say we have had some reform of the conflict-of-interest questions, disclosure of ownership questions, and insider dealing questions that we discovered in our recent hearings on the sordid BCCI scandal.

Mr. Chairman, I appreciate the support of the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], and the ranking Republican, the gentleman from Ohio [Mr. WYLIE] for this important amendment to eliminate three major problems brought out in the Bank of Credit and Commerce International [BCCI] scandal. Their leadership has been instrumental in our committee's investigation of BCCI.

When the President announced his savings and loan reform plan in 1989 his watchwords were "never again." The same watchwords apply to the BCCI scandal, which is why I offer this amendment to title I of H.R. 6, to implement three important BCCI related management and conflict-of-interest reforms.

The first problem this amendment solves is the conflict-of-interest problem. A number of the participants in the BCCI scandal wore too many hats and served too many masters.

Clark Clifford and Bob Altman were like the "Cat in the Hat." One moment they wore the hats of chairman and president of First American, the next moment they wore the hats of advisers to BCCI, then they switched back to their hats as board members of First American or one of its many holding companies. Their conflicts of interest were monumental.

Outside legal counsel and accountants are supposed to offer independent, disinterested advice. They cannot do so if they also serve on the board of directors. My amendment guarantees their independence and prevents conflicts of interest by prohibiting outside counsel and accountants who receive compensation from a depository institution or holding company from serving on its board of directors.

Under the BCCI reform amendment, never again will an individual who is supposed to be providing independent legal or accounting advice be allowed to also sit on the board of directors. New York University law professor, Stephen Gillers, has said of this practice:

> A lawyer's judgment is clouded by his participation on the board. Lawyers see a seat on the board of directors as a way of keeping business. It means they are less likely to be fired as counsel. That's why they do it.

My BCCI reform amendment will prevent this gross conflict of interest.

I should note, Mr. Chairman, that my amendment does not prohibit outside counsel

or accountants from sitting in on board of directors meetings, or from participating in discussions at board of directors meetings. My amendment does not even prevent them from being paid as professionals for their attendance at board meetings. It simply says that they should not vote at board meetings. We want their advice at board meetings to be truly independent, dispassionate and objective, and not clouded by other fiduciary responsibilities or relationships.

It is my understanding, Mr. Chairman, that the code of ethics for accountants already bars them from serving on the boards of institutions they audit.

The second problem my BCCI amendment solves is the "We didn't know" problem. The board of directors of First American claimed not to know who really owned the institution and even testified that this information was deliberately withheld from them. They were the original "Hear no evil, see no evil, speak no evil" gang. It is intolerable that First American's board did not know BCCI controlled their bank, did not know who owned their bank, and did not know why they did so much business with BCCI.

Under the BCCI reform amendment, never again will the board of directors of a bank or bank-holding company be able to claim as First American's did that they did not know who owned or controlled them. My amendment requires that the names of major stockholders of financial institutions and holding companies be provided to boards of directors. It also requires that directors be notified of any proposed change in control of either their institution, or any holding company which controls it.

The third problem my BCCI reform amendment addresses is the problem of insider control. First American and its board of directors were insulated from BCCI by multiple layers of holding companies in which bank insiders Clifford and Altman controlled, and in some cases were, a majority of the board. Just as a financial institution should have independent, outside legal, and accounting advice, it should also be controlled by individuals whose livelihood and employment is not dependent on the institution. My amendment prohibits insiders from controlling a board of directors.

Under the BCCI reform amendment, never again will bank insiders like Clifford and Altman be able to control a bank or bank-holding company board. At the Banking Committee's BCCI hearing Chairman GONZALEZ summed up the situation aptly when he declared, "all too many directors bring to the table only one thing—a huge rubber stamp with one word 'yes' for all management decisions." Banks have boards of directors in order to provide shareholders with an independent review of management decisions. That independence is thwarted if management has a majority of votes on the board. My BCCI reform amendment requires that a majority of each board be made up of nonmanagement individuals.

Mr. Chairman, this package of management and conflict-of-interest reform amendments has been put together with the support of the bipartisan leadership of the House Banking Committee and I urge its adoption.

Mr. WYLIE. Mr. Chairman, I yield 3 minutes to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. I thank the gentleman for yielding to me.

I would like to take this opportunity to thank the gentleman from Ohio [Mr. WYLIE], the ranking minority, Republican member, and I thank, as well, the chairman, the gentleman from Texas [Mr. GONZALEZ].

They have been superlative in working in a bipartisan manner, looking at our State of Rhode Island, where, with the efforts of my colleague, JACK REED, and myself, trying to solve what has been a most extraordinarily difficult problem.

In our State of Rhode Island, we had on January 1, 45 State credit unions and banks closed. This was because State bank and credit unions had a State-affiliated insurance program which was no longer solvent.

This affected almost 294,000 accounts in our State, $1.3 billion of assets were frozen.

Some 10 months later, we still have the bulk of these people without their money. This is perhaps the worst banking crisis in terms of the duration and the magnitude of States' population that has ever occurred in the United States.

We, at the Federal level, have been trying to help our State work its way out of this problem with the enormous help of the Committee on Banking, Finance and Urban Affairs, the gentleman from Rhode Island [Mr. REED] and I working together in a bipartisan way. We have an amendment, a technical amendment to the bank bill which provides a $180 million loan guarantee for our State.

Our State was one of the 13 original colonies. We have been here for a long time. We intend to work our way out of this problem ourselves to pay to our depositors the moneys which are owed. But we need a Federal guarantee, as Chrysler and New York did, so that we, in fact, can go to the bank and borrow money at a cheaper interest rate.

I suppose if there is such a thing as an economic Third World state, perhaps Rhode Island might fall into it. I have constituents come up to me on any given day and tell me problems of tuition moneys which are frozen, life savings which are frozen, elderly who have actually contemplated suicide because of the crisis.

I urge my colleagues to vote for not only this amendment but the other technical amendments, which are en bloc. Our States and communities need some assistance. This is, in fact, a most important resolution. Although Rhode Island may not have a strong political delegation in numbers, I think we have worked out a strong bipartisan amendment which will appeal to common sense and, I hope, your compassion.

Mr. GONZALEZ. Mr. Chairman, I yield 2½ minutes to the gentleman from Rhode Island [Mr. REED] and I want to thank the gentleman for his total support. The RECORD should show that he gave us the vote on the rule. I want to thank him very much.

Mr. REED. Mr. Chairman, I want to thank the chairman, the gentleman from Texas [Mr. GONZALEZ]. The people of Rhode Island are deeply grateful for what the gentleman has done. He has made their cause his own cause. He witnessed their suffering, he came forward to Rhode Island and gave them help, for which I thank the gentleman.

I would also like to thank the ranking minority member of the Committee on Banking, Finance, and Urban Affairs, the gentleman from Ohio [Mr. WYLIE], for his strong support, and I thank my colleague, the gentleman from Rhode Island [Mr. MACHTLEY], for his efforts to help Rhode Island. Also I would like to thank the gentleman from Kentucky [Mr. HUBBARD], the gentleman from Massachusetts [Mr. FRANK], and the gentleman from Wisconsin [Mr. KLECZKA], who helped us move this important measure along.

Mr. Chairman, the amendment today makes technical corrections to the Federal Loan Guarantee Program for Rhode Island. It will allow the State more flexibility and will ensure that there is no significant risk to the Federal Government.

On January 1 of this year, our Governor closed 45 banks and credit unions when the State's private insurance fund failed; 11 months later, 13 institutions are still closed, holding nearly $1 billion in deposits, with 125,000 accounts.

Mr. Chairman, our actions here today can bring some relief to hard-working families in Rhode Island who have never failed to support and defend this great country. In the face of crisis, the people of Rhode Island are struggling to raise their families, to educate their families. Our seniors are facing the uncertainty of old age, plagued by the turmoil of this great financial crisis.

Today we must stand with them. They deserve our total, absolute support as they struggle to work themselves out of this great crisis.

Mr. Chairman, I urge all of my colleagues to support this measure, to support Rhode Island, to help us move forward again.

Today the House continues consideration of H.R. 6, the Financial Institutions Safety and Consumer Act of 1991. The purpose of this comprehensive bill is to ensure the safety and soundness of our financial system in this country. Included in this bill is section 651 of title VI, authorizing $180 million in Federal loan guarantees to my State of Rhode Island.

This provision is the result of 10 months of work on the part of the Rhode Island congressional delegation, Chairman GONZALEZ, Representative HUBBARD, Representative FRANK, Representative KLECZKA, and others on the Banking Committee who recognized the urgent need of my State.

On January 1, 1991, the Governor of Rhode Island declared a banking emergency and

closed 45 credit unions and banks when the State's private insurance fund, RISDIC, failed. This action froze over 350,000 personal accounts and $1.7 billion in deposits. Almost 11 months later, 13 institutions remain closed holding close to $1 billion in frozen deposits.

Never before has such a large percentage of a State's population been affected by a banking crisis, not even during the Great Depression.

The State has assumed responsibility for this crisis, and has taken the initial necessary steps to return savings to the depositors. However, this crisis is taking place within the context of a devastating regional recession, and the State needs assistance in fulfilling its obligations.

This credit union debacle has exacerbated the State's fiscal crisis. Last year, the State faced the highest percentage deficit of any State in the country and balanced its budget through a series of drastic cutbacks and deferments. This fiscal year, the State will face an estimated $30 to $40 million revenue shortfall and could face a deficit of $200 million by fiscal year 1993. Between January 1, 1990 and January 1, 1991, Rhode Island lost nearly 10,000 jobs. Today, Rhode Island's unemployment rate has reached 9.6 percent. There was a 56-percent increase in the number of bankruptcies filed between March 1990 and March 1991. In the past 2 years, Rhode Island has fallen to 48th among the 50 States and the District of Columbia in job growth.

In this unmatched economic situation, it is incumbent that the Federal Government stand behind Rhode Island as it squarely faces these daunting challenges.

The hard-working citizens of Rhode Island have never been a burden to the Federal Government. They have paid their dues. They have contributed $107 million to bail out the Nation's failed thrifts, even though not one penny has been used to bail out a failed Rhode Island thrift. The Federal Government has assisted Chrysler and New York City in their time of need, and the people of Rhode Island are now asking the Government not to turn its back; they are asking for assistance at no cost to the taxpayer which will help the State fulfill its responsibilities.

However, the most compelling need for Federal assistance is not in the above statistics, but in the human suffering behind these statistics. My office continues to receive hundreds of pleas for assistance, and in many cases, the problems grow worse as weeks pass without access to deposits and people are not able to get on with their lives.

One of my constituents is a small grocery store owner who has all of his business receipts tied up in one of the closed credit unions. He is now struggling to meet his payroll, and may be forced to close his business. Another is 100 percent disabled and now, without access to his savings, supports himself and his family on the $393 he receives each month. He received food stamps for 1 month, after which he was deemed no longer eligible due to the total amount of his assets—assets which are still frozen in a closed financial institution and inaccessible.

There are many, many more desperate situations. Thousands of senior citizens, citizens who have put their trust in their neighborhood institution for many years, have arrived at their golden years only to find that they have been denied access to their lifesavings.

Students who have been saving for their futures have had to now put their dreams on hold.

Section 651 was included by Chairman GONZALEZ in response to hearings held in Washington, chaired by Representative HUBBARD, and a hearing held in Rhode Island by Chairman GONZALEZ and the Banking Committee which was attended by hundreds of depositors. Chairman GONZALEZ, Representative FRANK, Representative KLECZKA, and Representative MACHTLEY were present at the Rhode Island hearing and can tell of the pain and anguish of those in the audience and of the witnesses who spoke so eloquently of their frustration and hardships. Loan guarantee assistance was later passed unanimously by voice vote during the markup of H.R. 6 in the Banking Committee. The Senate Banking Committee followed with similar legislation.

The amendment which I offer today with my colleague from Rhode Island, Mr. MACHTLEY, includes technical changes to clarify our original intent that these Federal loan guarantees will pose no significant financial risk to the Government and will provide increased flexibility for the State. These changes will give the State the authority to pledge State assets as collateral to secure the guarantee in addition to existing authority to pledge assets of the Depositors Economic Protection Corporation [Depco] and revenue from the increased State sales tax. It will also require that the loans secured by the guarantee receive an investment grade rating of AAA, highest, or AA, next highest, or receive an assessment from the Secretary of the Treasury that the borrowing is fully collateralized.

On behalf of myself and the people of Rhode Island, I would like to once again thank Chairman GONZALEZ for his leadership and work on behalf of our small State. At a time when Rhode Islanders were desperately searching for assistance, Chairman GONZALEZ came forward and offered hope to hundreds of thousands of depositors. His immediate recognition of the magnitude of this crisis and the need for a Federal response is proof of his unyielding dedication to working Americans and their families. His understanding, compassion, and wisdom are forever indelibly inscribed in the hearts of Rhode Islanders.

I would also like to thank the members and staff of the House Banking, Rules, and Budget Committees for their assistance with this amendment and for recognizing the crisis situation which persists in Rhode Island. In particular, Rick Maurano, Kelsey Meeks, and Ed Brigham were indispensable. I would also like to thank my staff, particularly Ronnie Kovner, for their extraordinary effort.

In closing, let us not forget that our actions here today are in response to the demands of thousands of hard-working Rhode Islanders who have never hesitated to support and defend this great country. In the face of crisis, they are struggling to raise families; they are toiling to educate their children; some are facing the uncertainty of old age plagued by the disquieting turmoil of these financial failures. All of them depend on us.

They ask now, through their Representatives in this House, that our Federal Government stand with them in this hour of crisis. They are worthy of no less. I ask you to support this amendment and to support H.R. 6, as so amended.

Mr. GONZALEZ. Mr. Chairman, I yield the balance of our time to the gentleman from Massachusetts [Mr. FRANK].

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] is recognized for 1½ minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the chairman, particularly for his leadership in this portion of the bill. I was delighted to join him and my Rhode Island colleagues in a hearing which, characteristically of the chairman's dedication, we had on Memorial Day weekend in Rhode Island on this question of the bank and credit union situation. It is to the credit of the chairman and the ranking minority member and the two Members from Rhode Island that we have come up with, I think, a very reasonable solution to a tough problem.

So I am delighted that that is in here.

I am also grateful to the chairman and the ranking minority member because we also have in here, consistent with the budget agreement, a proposal to make affordable housing available. The FDIC has become a landlord and will become a landlord of even more residential housing, a matter in which they do not have a great deal of expertise.

□ 1410

We have built on the model that we have with the Resolution Trust Corporation, and we believe that out of this that there will become a movement toward some low-income housing in particular, and this is something that all of us on the committee have talked to the ranking minority members of both the full committee, and the Housing Subcommittee, and the chairman, and others. We have pointed out that with the important goals of home ownership one of the best ways to do it is to take these vacant properties that are now owned by the Federal Government. This is something that the Secretary of HUD cares about. This is probably the best and most efficient way to do that goal of low-income home ownership.

So, I am very grateful for my friends on the other side and the leadership of the chairman for including this.

Mr. JOHNSON of Texas. Mr. Chairman, I have an amendment to H.R. 6, the Deposit Insurance and Regulatory Reform Act.

Section 141(e) of H.R. 6 requires that before an institution can receive FDIC approval for open assistance, the FDIC must determine that the board of directors of the troubled institution has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

Section 143 of the bill, however, requires that the FDIC remove the board of directors of

any institution upon receiving open assistance. This section does allow the FDIC to give individual members of the board of directors a waiver from the automatic removal provisions, if it can be shown that such a waiver would lessen the risk to the corporation posed by the insured depository institution receiving assistance.

Unfortunately, by limiting the scope of the waiver to proving only that an individual director will lessen the risk to the FDIC, H.R. 6 provides no incentive to Federal regulators to retain knowledgeable, competent, and honest bank directors. If a board must be certified as competent and honest to get open assistance in the first place, then it only makes sense that this criterion should also be used when considering a waiver to allow board members to remain in their positions.

My concern is shaped by the events that occurred in the Southwest. In many instances, despite the best efforts of competent officers to keep their banks solvent, their institutions failed, not because of mismanagement, but simply due to the magnitude of the depression that hit the Southwest in the 1980's.

The desire of many Federal bank supervisors to clean house when they took over an institution, often didn't separate the good from the bad. Instead, many smart, honest bank officers—those who knew their institution best—were turned out, without regard to their ability to facilitate the resolution process.

We now see other parts of the country, especially the Northeast, facing an experience similar to the one that befell my home State of Texas. I am hopeful that my amendment will, in the future, give the FDIC better guidance in keeping qualified bank officers in positions where they can help resolve an institution, and thus save the taxpayers' and depositors' money.

Let me be clear—this amendment does not provide an automatic waiver to this section. The FDIC would still have broad authority to deny anyone a waiver from the removal provision.

Anyone who has been involved in any illegal or obviously unsafe practice should not be allowed to continue to manage or direct bank functions. My amendment simply asks the Federal regulators to take into account the actions of responsible and honest bank directors. It will not weaken Congress' intent to keep unfit persons out of our financial institutions.

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

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. GONZALEZ].

The amendments en bloc were agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 102-281.

Mr. NEAL of Massachusetts. Mr. Chairman, I have an amendment at the desk, and I ask that it now be considered.

The CHAIRMAN. Is the gentleman from Massachusetts the designee of the gentleman from New York [Mr. SCHUMER]?

Mr. NEAL of Massachusetts. Pardon?

The CHAIRMAN. The rule makes in order amendment No. 2 to be offered by the gentleman from New York [Mr. SCHUMER]. Is the gentleman the designee?

Mr. NEAL of Massachusetts. No, I am not.

My understanding was, Mr. Chairman, that my amendment was up next. That is what I was told earlier.

The CHAIRMAN. The Chair's information is that it is now in order to consider amendment No. 2.

Mr. WYLIE. That is correct, Mr. Chairman. That is according to the rule.

PARLIAMENTARY INQUIRY

Mr. GONZALEZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GONZALEZ. Mr. Chairman, I believe my impression under this rule is that we have to complete title I, and this is the last amendment for title I.

The CHAIRMAN. The Chair would advise the gentleman from Texas [Mr. GONZALEZ], the chairman of the Committee on Banking, Finance and Urban Affairs, that the bill is considered as read for amendment at any point, and the Chair is constrained to follow the order of amendments as they were printed in the report, according to the rule. The only amendment in order right now is amendment No. 2, and that is to be offered by the gentleman from New York [Mr. SCHUMER] or his designee.

Mr. GONZALEZ. Mr. Chairman, I ask unanimous consent that the gentleman from Massachusetts [Mr. NEAL] be recognized on his amendment out of order.

The CHAIRMAN. The Chair would advise the gentleman from Texas [Mr. GONZALEZ] that such unanimous-consent requests can be made only in the House, that the Committee of the Whole, even by unanimous consent, cannot so modify such a rule of the House.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHUMER:

Page 330, after line 5, insert the following new section (and redesignate the succeeding section and conform the table of contents accordingly):

SEC. 411. RESTRICTIONS ON ACTIVITIES OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39 ACTIVITIES OF INSURED DEPOSITORY INSTITUTIONS.

"(a) FLOATING INTEREST RATE CAP ON DEPOSITS.—

"(1) LEVEL 3, 4, AND 5 INSTITUTIONS.—No insured depository institution that is a level 3, 4, or 5 depository institution under section 38(b) may offer or pay a rate of interest on any deposit accepted by such institution which exceeds 105 percent of the prevailing rate of interest on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, of comparable maturity at the time such deposit is accepted, as determined in accordance with paragraph (4).

"(2) LEVEL 1 AND LEVEL 2 INSTITUTIONS.—No insured depository institution that is a level 1 or level 2 depository institution under section 38(b) may offer or pay a rate of interest on any deposit accepted by such institution which exceed 105 percent of the greater of—

"(A) the prevailing rate of interest on securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, of comparable maturity at the time such deposit is accepted, as determined in accordance with paragraph (4), or

"(B) the average of the rates of interest on a group of securities described in paragraph (3), as determined in accordance with paragraph (4).

"(3) GROUP OF SECURITIES DESCRIBED.—For purposes of paragraph (2)(B), a group of securities is described in this paragraph if—

"(A) 50 percent of such group consists of securities issued by the Secretary of the Treasury under chapter 31 of title 31, United States Code, which are of comparable maturity at the time the deposit is accepted by such institution;

"(B) 25 percent of the group consists of commercial paper or debt securities which—

"(i) have received the highest investment grade rating by at least 1 independent and nationally recognized statistical rating organization, and

"(ii) are of comparable maturity at the time the deposit is accepted by such institution; and

"(C) 25 percent of the group consists of obligations of any investment company (as such term is defined in section 3(a) of the Investment Company Act of 1940) that is treated as a money market fund for purposes of regulations issued by the Securities and Exchange Commission under that Act.

"(4) DETERMINATION OF MAXIMUM RATE.—The Corporation shall—

"(A) prescribe, by regulation, procedures for determining the maximum rates of interest payable on deposits for purposes of paragraph (1), including—

"(i) a procedure for determining such rate in case of a deposit the period to maturity of which, at the time of the deposit, is not comparable to the period to maturity of any security referred to in paragraph (1), (2), or (3); and

"(ii) the frequency with which such maximum rate shall be redetermined by the Corporation for purposes of paragraph (1), (2), (3);

"(B) determine, in accordance with subparagraph (A), the maximum rates of interest payable under paragraph (1), (2), or (3) during any period; and

"(C) publish each such rate before the beginning of the period to which maximum rates apply.

"(b) LENDING LIMIT.—

"(1) IN GENERAL.—The aggregate amount of loans and extensions of credit by any insured depository institution to a single borrower (including any affiliate of such institution) which is outstanding at any time may not exceed the amount which is equal to the sum of—

"(A) 15 percent of the amount of tier 1 capital of the institution which does not exceed

$100,000,000, as determined pursuant to the risk-based capital standard applicable to the institution; and

"(B) 6 percent of the amount of tier 1 capital of the institution which exceeds $100,000,000, as determined pursuant to the risk-based capital standard applicable to the institution.

"(2) EXEMPTION FOR INSTITUTIONS WITH TIER 1 CAPITAL OF LESS THAN $100,000,000.—Paragraph (1) shall not apply to any insured depository institution the tier 1 capital of which does not exceed $100,000,000.

"(c) NET EXPOSURE LIMIT.—In accordance with regulations which the Corporation shall prescribe, no insured depository institution may incur or maintain, at any time, any net exposure in connection with any trading activity in an amount which is greater than the amount is equal to 5 percent of the tier 1 equity capital of the institution, as determined pursuant to the risk-based capital standard applicable to the institution.

"(d) WAIVER AUTHORITY FOR PERIODS OF ADVERSE ECONOMIC CONDITIONS.—

"(1) IN GENERAL.—The Corporation may, by regulation or order, waive the application of any provision of this subsection to any insured depository institution if the Corporation determines that—

"(A) the waiver of such provision with respect to such institution is appropriate on the basis of adverse economic conditions (such as recessions, downward market cycles, or a restriction in the availability of credit); and

"(B) the grant of the waiver would pose no substantial risk to the stability of—

"(i) any insured depository institution subject to the waiver; or

"(ii) any deposit insurance fund.

"(2) MAXIMUM WAIVER PERIOD.—

"(A) IN GENERAL.—Any waiver granted pursuant to any regulation prescribed or order issued under paragraph (1) shall cease to apply at the end of the 90-day period beginning on the effective date of the regulation or order.

"(B) NO LIMITATION ON ADDITIONAL WAIVERS.—The Corporation may grant an additional waiver under paragraph (1) after the end of any 90-day period referred to in subparagraph (A) in connection with a prior grant of a waiver if the Corporation makes the determination required under paragraph (1) with respect to the grant of each such additional waiver.

"(e) 8-YEAR TRANSITION PERIOD.—The Corporation shall prescribe regulations establishing a schedule under which—

"(1) the limitations established under this section shall be implemented in such number of phases as the Corporation determines to be practicable and appropriate; and

"(2) full compliance with such limitations shall be required by January 1, 2000.".

The CHAIRMAN. Under the rule, the gentleman from New York [Mr. SCHUMER] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. WYLIE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] will be recognized for 15 minutes.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SCHUMER. The point of order, Mr. Chairman, is, as I understood it, we were doing the amendments to title I and then moving on to title IV. This amendment is in title IV. We have not completed the amendments in title I.

Mr. Chairman, this breaks the whole train of what we were trying to do, and so my point of order is: What is going on here?

The CHAIRMAN. The gentleman from New York has stated a parliamentary inquiry, not a point of order.

The Chair is constrained by the rule. The rule makes the bill read for amendment at any point, not by titles, and specifically orders the amendments. The gentleman from New York [Mr. SCHUMER] has amendment No. 2. His amendment is now in order.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent just so that we could do all of title I together, and then all of title IV together, which is what, as I understood it, was the intent of the Committee on Rules, to first finish title I, the amendments thereto, and then move to title IV.

The CHAIRMAN. As much as the Chair might want to help the gentleman from New York [Mr. SCHUMER], the Committee of the Whole is constrained by the rule, and such a unanimous-consent request is out of order in the Committee of the Whole. It must be made only in the House.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SCHUMER. Mr. Chairman, may I ask unanimous consent for the Committee of the Whole to rise? Then we can go into the full House, and then I can ask unanimous consent to do this the way it was intended. Would that be parliamentarily a correct thing to do?

The CHAIRMAN. The gentleman is correct. A motion could be made for the Committee of the Whole to rise, at which point, if adopted, a unanimous-consent request could be made in the House.

Mr. SCHUMER. OK. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York [Mr. SCHUMER].

The motion was rejected.

Mr. SCHUMER. OK; we will debate the amendment in a ridiculous order.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the choices that we are going to make in the next few days are truly monumental. They could determine the success or failure, not only of our banking system, but of our economy and our international competitiveness for years to come. We have a golden opportunity to really change the system and strengthen our entire banking and financial services world.

But to do that, my colleagues, we must address the fundamental weaknesses of the banking system. The basic problem that our banking system and our thrift system has faced, my colleagues, is a simple one. We all know it, and the problem is very simply that insured deposits have been transmogrified. Their original and fundamental purpose, as devised by Hoover and signed into law by Roosevelt, was very simple. It was to protect the depositors so that when the average person put his or her money in a bank, they knew it would be safe. In the late 1970's and throughout the 1980's our financial system experienced deregulation, and we did not change the deposit system, and, as a result, we were insuring, we, the taxpayers of America, were insuring crazy, and risky and wild investments in the S&L industry to an enormous extent, and now in the banking industry, as well.

□ 1420

We should not be insuring huge bridge loans to LBO's. We should not be insuring equity investments in real estate. We should not be insuring foreign currency trading and trading in the latest scam that has not yet brought banks trouble but will, mark my words, in the next few years, derivatives, which is betting on futures. Yet we do it.

No rational system could ever be designed so that insured deposits should be used for those activities, and yet our system does it. There is only one way to make our banking system sound, and that is to say once and for all that insured deposits should be used for low-risk, traditional banking activities, and then if our large financial institutions wish to invest in high-risk activities, they do not use the depositors' money, they do not use insured dollars, but they go to the markets for money. Our banks are sick and weak, not all of them, but our big banks are, by and large.

The CHAIRMAN. The time of the gentleman from New York [Mr. SCHUMER] has expired.

Mr. SCHUMER. Mr. Chairman, I yield myself 1½ additional minutes.

Mr. Chairman, when they ask for money, they just take the depositors' money and they do not do anything else with it.

Mr. Chairman, the same problem that occurred with the S&L's that cost us $500 billion is now occurring in the banking system. I support the amendment sponsored by our worthy chairmen, Chairman GONZALEZ and Chairman DINGELL, but those are firewalls, and firewalls simply slow the fire down, they do not put it out. Only the core bank will put the fire out, because the core bank is the only amendment on the floor that says we will not do what we did during the S&L crisis, and that is use insured dollars for risky activities.

It is no wonder that both people on the left and right support core bank. ACORN and the National Taxpayers, the Wall Street Journal, Forbes magazine, and then other publications far more liberal, support core bank because they know this is the only answer.

Mr. Chairman, we took some fateful votes in 1980 and 1982 on the S&L crisis. There was only a small minority of Members who were opposed to amendments that basically do the same thing as this bill. Let us not make the same mistake now. Let us learn the lessons of history. Do not let the big banks bamboozle us with false arguments. The only way to prevent the S&L crisis from occurring in our banking system is for the core bank proposal to be enacted into law.

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

The CHAIRMAN. The gentleman from Ohio [Mr. WYLIE] is recognized for 15 minutes.

Mr. WYLIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I know how hard the gentleman from New York [Mr. SCHUMER] has worked on this amendment, and I respect him for that. I respect him for the good judgment he has as a general proposition on banking legislation, but I must oppose this amendment at this time.

We do not know what consequences this amendment might have on the banking system and indeed on our economy as a whole. To quote Paul Volcker, the former Chairman of the Federal Reserve, on including core banking in this banking reform legislation, he says: "So important an issue, in my judgment, cannot adequately and responsibly be resolved as a late attachment to already complicated and needed proposed legislation."

I have just been delivered a letter from the Secretary of the Treasury, Mr. Nicholas Brady, and I will just read it in part, bringing out the best portions of it:

> This amendment, while well-intentioned, is an untested proposal that has not been thoroughly studied. * * *
>
> This amendment would reimpose interest rate controls on all bank deposits—not just insured deposits—and would drastically lower the legal limit on the amount a bank can lend to any one borrower. The proposal, which first emerged less than six months ago, is intended by its proponents to prevent banks from making hundreds of billions of dollars of loans that they currently make. We do not believe that Congress should enact such a proposal at a time when Congress and the Administration are struggling to address the credit crunch that has affected small businesses in many regions of the country.

Now, here is what some other regulators think. Gerald Corrigan, the president of the New York Fed, wrote: "I am very dubious that the approach would provide the desired result." He feels it will cause massive disintermediation of deposits and will seriously hinder credit availability. Mr. Corrigan also questions whether interest rate caps can work.

Timothy Ryan, the Director of the OTS, states: "Although some parts of the core banking proposal may be useful in controlling the risks assumed by depository institutions, I am extremely concerned that it may also have serious unintended consequences."

Robert Clarke, the Comptroller of the Currency, and Paul Volcker are both skeptical and urge caution in this regard.

I think that the core banking proposal takes us into unchartered waters.

Mr. Chairman, I see the gentleman from Iowa [Mr. LEACH] is on his feet, and I yield to him.

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is the most interesting proposal that has been brought to Congress this year in banking, but despite its great level of interest, it is very dangerous. It would take over $1 trillion out of the banking system at a time when the economy needs more credit. It would impel our larger banks to become more trading institutions than lending institutions. It is good for some of the financial institutions in New York and certainly for the securities industry, but I doubt that it is good for the economy at large or for this country. This Congress should be concerned about the economy and not particular institutions or particular areas where some kinds of banks are predominant.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would just like to clarify a couple of points. In terms of $1 trillion leaving the insured deposit system, I do not know of any estimate under the new numbers that we have here that come that close.

In reference to the point of the gentleman from Iowa, this is not aimed at specific institutions. In fact, most of the larger money-center New York banks are vehemently opposed to this amendment, as the gentleman well knows. Most of the large banks are opposed because they do not want to take the necessary medicine to make them better. But the only thing I say to the gentleman is that we should look at what terrible shape they are in now. Going around and nibbling around the edges is not going to make them better. They need strong medicine, and only core banking provides it.

Mr. WYLIE. Mr. Chairman, I would say in response to the gentleman that when Mr. Lowell Bryan first came before us with his estimate of what the core banking concept might do, he said that the disintermediation might run as a high as $1 trillion. I understand some modifications have been made in the concept since then. I appreciate the fact that these modifications have made, but that just adds to the fact that I think right now it is a little bit premature. I think we need to study the issue a little more, and I think that is the direction in which the gentleman from Iowa [Mr. LEACH] was heading.

Mr. LEACH. Mr. Chairman, if the gentleman will yield further, I appreciate what the gentleman was saying.

Let me make one final comment to clarify what the gentleman has stated. The institutions it would help would in the securities industry in New York and several of the largest banks. But let me go further. What this would do is, it will cause banks to change their lending biases and move away from almost all risks.

One of the great things in our economy today is that we are trying to propel our credit, not retard credit. This is not the time to play with the banking system.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. WYLIE] has expired.

Mr. WYLIE. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I would say that the National Association of Realtors have just sent me a letter, and they strongly oppose this amendment They believe, as they say in their letter, that there could be as much as $1.5 trillion in disintermediation from the industry's $3.3 trillion in deposits.

The National Association of Home Builders has indicated that they are opposed to the amendment for the same reason, because of the credit crunch that the country is now experiencing, and they are afraid it might have a very harmful and detrimental effect in that regard.

Again, core banking is an idea whose time has not yet come. It has a lot of interesting concepts in it, and as I said, I admire the gentleman from New York for his persistence and the fact that he has gotten into it to the extent that he has. I admire him for being able to get this here on the House floor for debate on this bill today. I think that is a monumental accomplishment in and of itself. But until we know what the prospects are and what the problems are as far as disintermediation and the availability of credit, and so forth, I must oppose the amendment.

Mr. SCHUMER. Mr. Chairman, If the gentleman will yield further, the latest estimates on the distintermediation are $200 million.

The CHAIRMAN. The time of gentleman from Ohio [Mr. WYLIE] has expired.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA], a cosponsor of the amendment.

□ 1430

Mrs. ROUKEMA. Mr. Chairman, I rise in support of this, and I say as one

Member, I have not forgotten the lessons of the 1930's and the savings and loan debacle of recent years.

During the eighties, after we deregulated the S&L's, unlimited interest rates which we authorized led to bidding wars for deposits. Those bidding wars led to riskier and riskier investments.

Larger than normal loans to one borrower led to speculative investments in real estate and other questionable commercial lending which left the thrift industry literally holding the bag.

This core bank amendment tells us that we should not forget the lessons of history. I must say in answer to some Members who have talked loud and long about protecting the depositors, protecting future taxpayers, if we really want to do that, we should understand what the Wall Street Journal understands, that the core banking proposal is the best way to insulate taxpayers against another costly bailout.

Mr. Chairman, I include for the RECORD a Wall Street Journal editorial in support of it where it specifically points out that there is not much blood left in the stone, meaning going to the taxpayers to borrow more money for the insurance fund. It states that this collective abdication is moving us to embrace a radical alternative, that of the core banking bill. The proposal is admittedly not the perfect solution, but it is the only proposal on the table that would do anything about deposit insurance. It is the closest thing to real deposit insurance reform and to protecting taxpayers in the future.

The Wall Street Journal editoral follows:

[From the Wall Street Journal, Aug. 15, 1991]

FREDDY'S BAAACK!—II

Bank of America's takeover of Security Pacific is the banking industry's latest attempt at self-help revival. We wish it luck, but we'd have more faith that such mergers will succeed if we saw anything remotely sensible coming from Washington.

Instead the capital's emerging bank "reform" is what we've called another Freddy's Nightmare, recalling Fernand St Germain, the financial genius behind savings and loan reform in the 1980s. That means some modernization, some new banking powers, and lots of talk about more "capital" and "tough" new regulation. In fact, banks' capital positions are already considerably higher than they were before that worry became fashionable. We need to remember, as William Seidman has stressed, that having regulators take over a sagging bank reduces its value and can increase costs to the taxpayer. And of course, having more examiners look over the shoulders of more lending officers is not going to speed the currently tepid economic recovery.

Worst of all, the "reform" does nothing about overly generous deposit insurance, the central flaw that caused the Savings and Loan Crisis and threatens the banks as well. As the S&L lobby got then-Rep. St Germain to boost deposit insurance to $100,000 in 1980, today the small-bank lobby has squelched any attempt to pare it back—even the modest reform of limiting coverage to one account per individual.

Under Keating Five luminary Donald Riegle, the Senate Banking Committee dismissed deposit-insurance limits out of hand; the House Banking Committee rejected them in an 18-17 vote. The Treasury doesn't seem to care that is modest insurance reforms have been gutted. White House Budget Director Richard Darman, who gives an annual lecture on growing federal "liabilities," doesn't seem to be a player.

Meanwhile the Treasury and Congress plan to bring banks on into the future to shore up the banking insurance fund that now pays off depositors. Treasury is using future bank contributions to the fund to borrow some $70 billion for the fund. There isn't much blood left in this stone. Without basic reform now, the next time the fund is in jeopardy, taxpayers will be the only resort.

This collective abdication is moving us to embrace a radical alternative; New York Representative Chuck Shumer's "core" banking bill. The proposal, which is gaining supporters in Congress, is admittedly not the perfect solution. But it is the only proposal on the table that would do anything about deposit insurance.

Mr. Schumer's bill is a modified version of a plan authored by McKinsey banking expert Lowell Bryan. It would limit the interest rate banks could pay on insured deposits to 105% of the Treasury-bill rate. This would avoid the S&L problem of bankers bidding ever-higher for deposits and then gambling on risky loans. The basic regulation for this "core" bank would be that it could lend only so much to any one customer, forcing banks to diversify their loan portfolio, also good for long-run safety.

Outside this core, though, a bank would have the option of accepting deposits with no interest-rate restriction and no federal insurance. Americans willing to accept a little more risk for a higher return could put their money in the non-core bank, and banks could invest these funds without bank examiners constantly peering over their shoulders. Widows and orphans could stick to the "core." Over time the deposit-insurance safety net would shrink; taxpayer risk and liability would decrease. But meanwhile, the economy would get financed.

We don't like fixing anyone's prices, of course, but people relying on taxpayer subsidies shouldn't complain about some limits on their profit-making potential. And the Schumer bill avoids the old Regulation Q credit-crunch problem by letting the rate float with T-bills. Some sages tell us the Schumer concept is the beginning of credit allocation, but in many ways it's less politically intrusive than the Treasury-Congress plans. The Schumer bill at least lets bankers make their own market judgments within the core-bank limits.

We'd be glad to listen to other ideas. Our own proposal, made before the S&L problem reached crisis stage, was that deposit insurance premiums should vary with ratings of risk, as commercial insurance premiums always do. But so far, the core banking idea looks like the only horse on the track that promises to shrink the taxpayer's deposit-insurance exposure.

Sans Schumer or something else, Washington's banking reform looks like the S&L reform redux, a giant buck-passing operation designed to let everyone in the Beltway say they've done something without having to make any hard decisions. The banking industry's problems won't go away, and taxpayers will be left to pick up the check.

Mr. Chairman, I would like to indicate that the core bank does this in the ways that the gentleman from New York [Mr. SCHUMER] has already outlined, and says that we are not going to do it tomorrow, we are not going to do it next year, but there is a rather precise proposal here for an 8-year phase-in. So when we have these scare tactics about money flowing out in huge numbers from the industry, those are only a scare tactics.

Mr. Chairman, I rise in support of the core-bank proposal offered by the gentleman from New York.

The lessons of the savings and loan debacle and the history of the 1930's has not been lost on this Member. Two of these lessons are addressed by the core-bank proposal.

During the early 1980's after we deregulated the S&L's, unlimited interest rates which we authorized led to bidding wars for deposits and those bidding wars led to riskier and riskier investments.

Larger than normal loans to one borrower led to speculative investments in real estate and other questionable commercial lending which left the thrift industry literally holding the bag.

The old adage, "he who ignors the lessons of history is doomed to repeat them," continues to hold true today. If we don't act now to place some modest control over the banks' unlimited ability to attract deposits at will, we will have failed to reduce taxpayer exposure and to eliminate the incentive to make unsound investment decision.

In this respect, I do not believe this amendment should be considered an alternative to or substitute for, the Treasury bill we are considering. There is a neat fit between the two.

And, this goes directly to the heart of the fundamental reforms we are aiming for—secured deposits, affirming the safety net, and expanding and diversifying financial activities and their investment opportunities.

Let there be no mistake, this concept is not the panecea for our banking problems. There are lots of questions to be asked and concerns to be addressed.

Refinements in the proposal will have to be worked out over the 8-year phase-in for this plan. And I want to stress this phase-in period. We are not talking about the creation of a new system overnight or on the date of enactment.

With that said, the core-bank concept does represent a sensible approach to the basic problems in banking which require restructuring.

We know that there has been a growing pool of insured deposits that are chasing a smaller pool of profitable business. As a result, many banks, in attempting to retain their market share, have been found to be relaxing underwriting standards, taking more risk and increasing the rates they pay for deposits.

This process in turn has backfired for many banks as we have seen with the downturn in the commercial real estate and development market.

The core-bank concept attempts to deal with these problems by removing risky activities from the insured bank and by lowering the incentives for risk taking in the core bank by placing limits on the interests rates which can be offered and amounts one individual can borrow from the institution.

For this Member, floating interest rate caps and reasonable loans to one borrower limits are the areas which need further exploration and discussion. But fundamentally, they are sound concepts which would serve to rein in and tighten the Federal safety net, thus providing more protections for the bank insurance fund and ultimately the taxpayer.

I believe my colleagues will agree that insured deposits should only be used to finance traditional business of banking—personal loans, small business loans and lines of credit, and mortgage lending. Insured deposits should not finance highly speculative lending, equity investments or other activities which should be done outside the Federal safety net.

These are the reasons the Wall Street Journal and Forbes magazine support it.

The core-bank proposal as offered is not perfect. But it is a concept worth our very serious examination.

I urge adoption of this amendment.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman, as a realtor and close associate of banks in the Texas area, I can say that this proposal looks like to me it does exactly what we do not want to do, and that is put the money where it cannot be lent.

Mr. Chairman, the core bank appears to do little, if anything, to reduce the risk to the FDIC, while it is likely to create tremendous disruptions in lending practices, regulatory oversight, and customer relationships.

The core bank lending limit appears highly likely to further reduce credit ability and make borrowing costs much higher. The potential disruptions for our economy, the financial system, and the banking system, with all the possible inefficiencies and costs, must be carefully examined before such a radical step could be taken.

Mr. Chairman, I think that our chairman and the minority members on this committee have worked hard to put a good banking bill in place, and this would just destroy it.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would like the gentleman to answer if he thinks that lending to Brazil is risky, if he thinks that HALT loans are risky, if he thinks doing foreign currency exchange trading is risky?

Mr. JOHNSON of Texas. Sure.

Mr. SCHUMER. Then I would say to the gentleman, he stated it would not reduce risk to the depositors. All those things could not be done with insured deposits under core bank. So how can the gentleman assert so boldly and so baldly that it will not reduce risk to the deposit system if he agrees that those three activities are risky and he knows that core bank will eliminate insured dollars going to those activities?

Mr. JOHNSON of Texas. Mr. Chairman, reclaiming my time, let me say to the gentleman from New York [Mr. SCHUMER], I am not just talking from personal experience. I am quoting from bankers who know the banking business, and these are recommendations from them.

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield further, I understand from the gentleman that big banks do not like this bill. It will make them a lot healthier, too, because they should not be using their money for these activities.

Mr. JOHNSON of Texas. Mr. Chairman, what we need is money out there to be loaned.

Mr. SCHUMER. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. BACCHUS], a member of the committee.

Mr. BACCHUS. Mr. Chairman, for 10 months, I have deliberated with the 50 other members of the Banking Committee about bank reform.

Some of my colleagues on the committee have deliberated on this issue for 10 years, and more.

We need real bank reform.

Reluctantly, regrettably, I have concluded that the bills offered today won't give us the real reform we need.

They won't restore the health and profits and competitiveness of the banking industry.

They won't provide all the protection that depositors need.

They won't protect taxpayers against the possibility of a bank bailout that could rival the scandalous bailout of the savings and loans.

In fact, the financing scheme in each of the proposed bills opens the back door of the Treasury wide to a taxpayer bailout of commercial banks.

The banking industry offered to recapitalize the FDIC themselves.

We ignored them.

We're sneaking through the back door to pick the taxpayers' pockets once again.

The $30 billion in these so-called reform bills is just the beginning.

President Bush will be back to ask for billions more.

Shades of the RTC.

We must limit the risk of the taxpayers of a bank bailout that could cost hundreds of billions of dollars.

It would be wrong to try to limit taxpayer exposure by limiting deposit insurance—without also ending immediately the iniquitous doctrine called too-big-to-fail.

Community Banking and Community decisionmaking must be maintained.

The real reform we need is core banking.

Core banking does not limit deposit insurance.

Core banking limits the insured activities of banks.

Those banks that engage in safe, sound, traditional banking activities would have the same sheltering umbrella of insurance they have always had.

Those banks that want to make risky loans or highly speculative investments could do so—but not on the taxpayers' tab.

Banks do need a level playing field. Yet we shouldn't ask the taxpayers to pay for the balls and the bats.

With core banking, banks would be profitable. Depositors would be protected. The taxpayers' pockets would be much more secure.

Too many of us can't see the forest for the firewalls. Those who think that any of the bills offered today constitute real reform should read the fine print.

Follow the money trail.

See where it leads.

Lock the back door.

Those who want real reform should support core banking.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NAGLE. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. NAGLE. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 360]

Abercrombie	Bruce	DeFazio
Ackerman	Bryant	DeLauro
Alexander	Burton	DeLay
Allard	Bustamante	Derrick
Anderson	Byron	Dickinson
Andrews (ME)	Callahan	Dicks
Andrews (NJ)	Camp	Dingell
Andrews (TX)	Campbell (CO)	Dixon
Annunzio	Cardin	Donnelly
Anthony	Carper	Dooley
Applegate	Carr	Doolittle
Armey	Chandler	Dorgan (ND)
Atkins	Chapman	Dornan (CA)
AuCoin	Clay	Downey
Bacchus	Clement	Dreier
Baker	Clinger	Duncan
Ballenger	Coble	Durbin
Barnard	Coleman (MO)	Dwyer
Barrett	Coleman (TX)	Dymally
Barton	Collins (IL)	Early
Bateman	Collins (MI)	Eckart
Beilenson	Combest	Edwards (CA)
Bennett	Condit	Edwards (OK)
Bentley	Conyers	Edwards (TX)
Bereuter	Cooper	Emerson
Bevill	Costello	Engel
Bilbray	Coughlin	English
Bliley	Cox (CA)	Erdreich
Boehlert	Cox (IL)	Espy
Boehner	Coyne	Evans
Bonior	Cramer	Ewing
Borski	Crane	Fascell
Boucher	Cunningham	Fawell
Brewster	Dannemeyer	Fazio
Brooks	Darden	Feighan
Broomfield	Davis	Fields
Browder	de la Garza	Fish

Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1458

The CHAIRMAN. Four hundred Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1500

The CHAIRMAN. The Chair would advise the Committee that there are 11½ minutes remaining in this particular debate.

At the time of the quorum call, the gentleman from Ohio had yielded 2 minutes to the gentleman from North Carolina [Mr. NEAL].

The gentleman from North Carolina [Mr. NEAL] is recognized for 2 minutes.

Mr. NEAL of North Carolina. Mr. Chairman, this amendment certainly has a superficial appeal. We have a problem with insured deposits. We have got an easy answer, just reduce the amount of insured deposits. Of course, that is exactly what the core banking concept does. If it did not do that, well, there would not be any reason for it. But that is the problem also.

Most estimates I have seen are that this proposal, this core bank proposal, would shrink the banking system by about a third.

Now, we do not know for sure, but we think it would shrink it by $1.5 trillion. Sure, it would reduce deposit insurance, because it would shrink deposits—shrink deposits by $1.5 trillion.

If you like the credit crunch, you will love core banking.

Mr. Chairman, already small business is having an enormous amount of trouble finding money. The banks and regulators, as everyone is hearing, are tightening up. If you take 30 percent of the money out of the banking system, you will have a real credit crunch, a disaster for small business, a disaster for our economy.

Mr. Chairman, if you take a third of the money out of our banking system, you will have a disaster for small business and the economy. And do not forget, Mr. Chairman, that interest-rate ceilings and a limited charter, exactly what core banking is all about, is exactly what the savings and loans had. It did not keep them out of trouble in the 1970's.

This core-banking proposal has a superficial appeal, but, in fact, it is a very far-reaching radical proposal. There have been hardly any hearings on it. It was defeated in subcommittee, defeated in full committee.

The Senate bill calls for a study of this proposal. That is a good idea. It has some appeal, let's study it.

But certainly, let us not adopt something so far-reaching, so radical, without adequate hearings.

It is essential to defeat this core-banking proposal.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. COX].

Mr. COX of Illinois. Mr. Chairman, I rise today to express my strong support for the amendment proposed by the gentleman from New York [Mr. SCHUMER], which creates a core banking system in this legislation.

It seems to me that it is important for all of my colleagues to understand the real reasons that we are where we are today. Those reasons are:

First, bankers have made some bad loans. It is important to keep in mind that it is not solely the fault of the bankers that some of the loans they have made have turned sour. Extensive changes in the national economy—as well as specific changes in tax laws which have affected the value of real estate—are also involved in the increasing number of problem loans of our Nation's banks.

Second, we have the executive branch's regulators who cannot regulate the way we want them to regulate. It is interesting to note that the proposed firewalls in the legislation will be enforced by those same regulators.

Third, we are currently in a recession. This recession has brought to the forefront the problems which could have festered behind the scenes for sometime if the overall economy had not slowed down.

Rather than tinkering around edges of the industry's problems, we must act responsibly by getting to the heart of the problem. For this reason, I am in full support of the core banking proposal. If banks believe they need new powers to restore their profitability, let us allow for it. Let us no longer pretend that regulators can somehow make better choices than responsible business people about how to operate their institutions. And most importantly, let us allow banks to be competitive in the financial services industry again. However, let us not do those things with the taxpayers standing behind the system. A core banking structure will separate safe investments from more profitable, yet riskier activities without making the taxpayers pay the price of failure.

Core banking will minimize taxpayer exposure. It is the most responsible and commonsense action we can take here today. I urge my colleagues to vote for the Schumer amendment.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LaFALCE. Mr. Chairman, I reluctantly rise to oppose the amendment.

One of the reasons we are here today is to help bring about a modernization of the financial services industry legal infrastructure to bring the U.S. banking laws up to speed with the rest of the world.

The fact of the matter is that the banks in the United Kingdom, the banks in Germany, the banks in Japan, et cetera, have a much broader charter

than United States banks, and if we want to become, not remain, but become internationally competitive, we must have charters commensurate with theirs. This goes in the opposite direction.

Second, we must be concerned not only with financial institutions per se, we must be concerned with national and international economies. Right now, we are in a very serious recession. In large part because of failed banking laws and policies, we have a capital crunch. That capital crunch has produced a credit crunch.

There are legitimate concerns, concerns voiced by the banking regulators present and past, Greenspan and Volcker, Taylor and Seidman, et cetera, that this will exacerbate the credit crunch, that it could bring about a disintermediation of $½ trillion, $1 trillion, $1.5 trillion.

The only place you would be able to go for money is not to your local bank, if you are a small businessman, it would be to a GE Capital Credit Corp., but they do not make loans to the small-business community.

We do need limits on the interest rates that undercapitalized banks give. The banking bill provides such restrictions. The banking bill gives the regulators the ability to impose restrictions on undercapitalized institutions.

Do not make this mistake.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the House for being in order. I think it is very important that you are in order.

I would like you all to just take a moment to think, however you might, where you are right now at this time, what day it is, so you will remember this day. Think about it, whether it is Halloween, the last day of October, it is your spouse's birthday, your children's birthdays, do not forget today, because many of you forgot where you were in 1981, when we made a fatal mistake, when we let the S&L's take the public's money, the insured money, and go and gamble with it. And we are now charging it, billions and billions of dollars, to our children.

This is the only vote you will get that reforms the system, the only vote you will get. Some of you scrambled for the CONGRESSIONAL RECORD to try to see if you voted with Mr. LEACH, or did you not, did you vote with Mr. St Germain, or did you not. Remember where you are now, folks, because you are going to be asked a few months, a few years from now where were you on the day they voted on core banking.

"Did you let the bankers gamble with federally insured money?"

The answer will come in a minute.

□ 1510

Mr. WYLIE. Mr. Chairman, part of the problem, I may say to the gentleman from California, is that in his own State they were permitted 100 percent equity investments if they were a State-chartered S&L.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, first of all, in response to the last speaker, my distinguished colleague, I hope all the Members of this body had an opportunity to look at title I of the bill and the increased safety and soundness standards contained in title I; but I rise in opposition to the amendment, not because the idea lacks merit. To the contrary, I am intrigued by the idea, but because the idea is now being promoted as an 11th-hour quick fix panacea, and that is exactly what way it came before the Banking Committee.

This idea in its various forms, core banking, two-tier, two-window banking, has been around for awhile and deserves our serious study and consideration, not at the 11th hour, but before the Banking Committee, which has pledged to study this concept, with witnesses representing the consumer groups and the banking and financial services industries.

Mr. Chairman, I personally would like the idea, which I did not have at the sole hearing that we had on this in the Banking Committee, in the Banking Committee markup, to get some answers to my questions. Can a financial services holding company own both a regulated insured core bank and an unregulated uninsured subsidary? If that is the case, what regulations are we going to impose to protect the integrity of core banking and insure that the deposits flowing into both subsidiaries are not comingled? After all, the idea of core banking is that those deposits can only be invested in the safest and soundest investments.

Mr. Chairman, we will have another opportunity to examine the merits and the impacts of this revolutionary proposal, to think it through properly and to revisit the subject when we go back and look at the overall subject of regulatory restructuring. That is the time to give this consideration. Do not fall prey to the seductive allure of a last-minute fix that could cause tremendous uncertainty, distress, and disintermediation in the financial markets and in the short run would certainly worsen our severe credit crunch across the land.

Mr. SCHUMER. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Chairman, I rise in support of the core bank concept as embodied by the Schumer amendment. I urge an aye vote.

Mr. SCHUMER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN], a member of the committee.

Mr. MORAN. Mr. Chairman, this amendment is unique among all of the amendments that we will consider in this banking bill. It is unique because there is no special interest that supports this amendment. We will not be met by any high-priced lobbyists on our way onto the floor giving us the thumbs up sign. There is no interest that can benefit from this amendment, but one, and that is the public interest.

It is terribly important to understand that if this amendment passes, we do not need to fight about the Dingell-Gonzalez amendment. Give the banks all the powers they want, because the Federal taxpayer will not be left holding the bag. That is our ultimate responsibility, not to protect any interest, but the public interest.

Yes, it is farreaching, it is radical, but it is the right thing to do.

Mr. SCHUMER. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas [Mr. SLATTERY], the distinguished cosponsor of the bill.

Mr. SLATTERY. Mr. Chairman, without this amendment, when we finish our work here today the basic banking system will still be in place. We are not going to make fundamental reforms. The system that allows banks to make loans to Brazil, Argentina, and perhaps the Soviet Union with insured deposits, will be in place. We will still have a system that will enable our banks to invest in high-yield risky junk bonds with insured deposits, and we will still have in place a system that will allow our banks to make highly speculative real estate loans with insured deposits, and we will have in place banks that can speculate on the international monetary markets with your insured deposits.

Now, the core-bank proposal offers real reform. It will change all of this and it will say to the big banks in this country that will be affected by this legislation, because the small community banks will not really be affected, but it will say to those big banks that you can do those activities, you can speculate in the monetary markets, you can speculate in real estate, you can speculate in high-yield junk bonds, but you cannot do it with the taxpayers' insured deposits. That is what we are talking about. It is not a radical idea. It is fundamental common sense.

Mr. Chairman, the taxpayers are going to be watching this vote, because their No. 1 concern is to reduce their exposure in the deposit insurance system. This is the only proposal that does that. I strongly urge your support.

Mr. SCHUMER. Mr. Chairman, I yield ½ minute to the gentlewoman from New Jersey [Mrs. ROUKEMA], a distinguished cosponsor of the legislation and a member of the committee.

Mrs. ROUKEMA. Mr. Chairman, our colleagues should understand this is the only piece of business before us that is truly going to protect the tax-

payer by insulating deposit insurance and taxpayer money. It will take 8 years, not tomorrow, but 8 years to work out and the disintermediation will not take place to suggest that enormous outflows of money cannot be substantiated. These are purely scare tactics. If disintermediation were the consequence the Wall Street Journal, Barron's, and Forbes would not be endorsing this, nor would the National Taxpayers Association.

Establishment of the core bank concept is the only proposal before us to insulate the deposit insurance fund and protect the taxpayer from future bailouts.

Mr. SCHUMER. Mr. Chairman, I yield myself the remaining time.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I rise on behalf of the gentleman's amendment. I think it makes a great contribution to the bill.

Mr. SCHUMER. Mr. Chairman, why should one be for core bank? There are several reasons. First, it has been argued there would be disintermediation. Yes, there would be some money flowing out of the system, the money that now goes to Brazil, the money that goes to LBO loans, the money that goes to high-flying real estate lending. That money should never have been insured and that is the only money that would flow out of this system under core bank. Money for mortgages, for small businesses, would increase under core bank, because that is what banking should do.

Why should one be for core bank? Because it has broad bipartisan support.

The gentleman from California [Mr. CAMPBELL] and I—he could not be here—worked hard on this bill, along with the gentlewoman from New Jersey and the gentleman from Kansas; but most of all, Mr. Chairman, we should not make the same mistake we made in 1982, with the S&L's, letting them expand into new businesses with the taxpayers' dollars. We all know that is what caused the problem. We can argue about who did it, but that is the cause.

There is only one amendment on the floor today that learns from history. It is a sweeping change indeed, but the banking system is sick and we will be back here for $30 billion and $30 billion and $30 billion and $300 billion unless we reform the system today. Do not put it off. Do not delay. The taxpayers cannot afford it. Only core bank will protect the insured deposit system once and for all.

□ 1520

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, as a supporter of the basic concept of core banking, I reluctantly rise in opposition to this particular motion.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the core bank concept. I caution my colleagues: Look before you leap. This could exacerbate the credit contraction; their right to the banking system will never be the same, it is turning over on its head. We have not even studied it. Are you prepared to do that? Vote "no."

Mr. Chairman, the core bank idea is an honest, creative way to try and deal with the problem of subsidized deposits that get in the way of market discipline, and therefore contribute to losses for the bank insurance fund.

Another form of poor market discipline is the too-big-to-fail problem, which we addressed in several instances in the underlying bill. We disallowed the coverage of uninsured deposits, and we placed limits on Federal reserve advances to ailing banks.

Some feel we did not go far enough, and given that there are not limits on insured accounts per institution, we need the core bank proposal, which would divide banks into insured core banks and uninsured wholesale banks.

My problem is that Congress does not have a full grasp of what the policy will mean once implemented. Usually when people say "we should have held hearings first," it's a strawman, a disingenuous ploy to stave off the political opposition. But here, with this ambitious amendment, I can say that I for one truly need to hear more, to hear experts from the field, before I vote on a policy that will effect tens and tens of billions of dollars.This is not a political statement. I may someday vote for the core bank proposal. But that will only be after I have become far better educated on the details and ramifications therein. We're talking about a fundamental reorganization of the banks industry, without critical review and assessment.

So the bottom line is I am not ready for this. I am not even sure what questions to ask. I suspect there may be problems with wholesale banks that run into difficulty and then need a government bailout after all. They may be too big to fail even though they have no FDIC coverage. I also don't know what the effect will be on the economy when billions of dollars are transferred from core banks to wholesale banks. I don't know if interest rate caps are needed to prevent speculation or are just a throwback to a more heavily regulated era.

In sum, my colleagues, I am not ready for this. If I cannot explain this with a degree of certainty to my constituents, then I cannot vote for the amendment. I understand that the Banking Committee chairman has pledge hearings. We should proceed on that path.

Mr. WYLIE. Mr. Chairman, I say to the gentleman from Kansas that commercial banks are prohibited by law from investing in junk bonds.

Mr. Chairman, I yield the balance of my time, 1 minute, to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. I thank the gentleman for yielding.

Mr. Chairman and colleagues, make no mistake, this is one of the two or three most critical votes we will cast on this issue.

I agree with the gentleman from Iowa [Mr. LEACH] that this amendment does not have a surface attractiveness. But under scrutiny, it does not stand. That is why neither committee included this amendment in its proposal to this body, not the Committee on Energy and Commerce nor the Committee on Banking, Finance and Urban Affairs.

This Nation used to have core banking. It had core banking in 1929, when you had insured postal stamps, if you wanted to pick that venture.

People with insured postal stamps did not lose a dime in 1929. But the system crashed.

What we tried to do after 1929 was to integrate the entire banking system. And the flaws of this amendment is that it takes us back to 1929.

Do we want to risk that? Do we want to risk, as the gentleman from Kansas [Mr. SLATTERY] said, completely overturning the banking system as we know it? This is not the time, and let us not take that risk today.

Mr. WEISS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from New York [Mr. SCHUMER], and I commend him for his attempts to include true deposit insurance reform in this measure. The Schumer amendment constitutes tough love for banks by requiring banks to fund their risky activities through the markets. Most importantly though, this proposal will limit taxpayer exposure and ultimately lower FDIC costs by imposing the most cautious form of early intervention—a strong dosage of failure prevention.

The unintended reality of deposit insurance is that banks play hard and fast with taxpayer-insured deposits in pursuit of high profits. Unfortunately, this system enables a small portion of institutions to overpay for deposits in order to fund their activities, regardless of the risk associated with these activities.

Two alternatives to remedy this situation are limiting the insurance provided to depositors or limiting the way banks use these deposits. In my estimation, limiting government liability at consumer expense is not an appropriate response. Rather, narrower banking practices offer a much fairer option while creating stronger banks and protecting consumers against unsound banking operation.

But the core bank proposal does not eviscerate banks as its opponents would have you believe. The limits under which core banks will operate will still allow insured institutions to make consumer, small- and mid-size business loans and conduct all branch activities. Core banks additionally would be free to affiliate with uninsured institutions, which have far fewer restrictions placed on them. These affiliates could invest in riskier assets and offer higher rates to their customers. In effect, this amendment provides the most unclouded and most sensible distinction between an investor and a depositor.

An uninsured investment company could be set up to perform all underwriting, trading, and investment banking activities. Institutions interested in partaking in these activities would have to raise funds in the marketplace. The core bank proposal takes the Federal training wheels off banks by making them compete for deposits on the strength of their own balance sheet.

By imposing floating interest rate caps, the proposal further ensures that weak banks could not attract new funds on the Government's guarantee. Prudently, it includes a safety valve for the rate caps during times of severe economic hardship. The amendment gives the FDIC the authority to temporarily waive the interest rate limits in cases of regional recessions or harsh market cycles.

Mr. Chairman, we are on the verge of making major reforms to our banking system. Many of these changes are critically needed but it would be unconscionable to expand bank powers without enacting major safeguards to the American taxpayer. I urge my colleagues to support the core bank amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 106, noes 312, answered "present" 1, not voting 14, as follows:

[Roll No. 361]

AYES—106

Ackerman	Hall (OH)	Payne (NJ)
Andrews (ME)	Hall (TX)	Pelosi
Annunzio	Hayes (IL)	Poshard
AuCoin	Hertel	Rangel
Bacchus	Hochbrueckner	Regula
Beilenson	Horn	Rohrabacher
Bennett	Hoyer	Rostenkowski
Berman	Hughes	Roukema
Bonior	Jefferson	Roybal
Borski	Johnson (SD)	Russo
Bryant	Jontz	Sanders
Cardin	Kaptur	Sangmeister
Clay	Kennedy	Schroeder
Coleman (TX)	Kennelly	Schumer
Collins (IL)	Kildee	Serrano
Collins (MI)	Lehman (CA)	Slattery
Condit	Lehman (FL)	Smith (FL)
Conyers	Levine (CA)	Stark
Cox (IL)	Lewis (GA)	Stenholm
Coyne	Lipinski	Stokes
DeFazio	Lowey (NY)	Studds
Dellums	Markey	Taylor (MS)
Donnelly	Mazzoli	Torricelli
Dorgan (ND)	McCloskey	Traficant
Downey	McDermott	Visclosky
Durbin	Mfume	Washington
Dwyer	Miller (CA)	Waters
Eckart	Mineta	Waxman
Edwards (CA)	Mink	Weiss
Engel	Moran	Wheat
Foglietta	Neal (MA)	Wolpe
Ford (MI)	Olver	Wyden
Gejdenson	Owens (NY)	Yates
Gephardt	Owens (UT)	Zimmer
Glickman	Pallone	
Gonzalez	Panetta	

NOES—312

Abercrombie	Gilchrest	Moody
Alexander	Gillmor	Moorhead
Allard	Gilman	Morella
Anderson	Gingrich	Morrison
Andrews (NJ)	Goodling	Mrazek
Andrews (TX)	Gordon	Murphy
Anthony	Goss	Murtha
Applegate	Gradison	Myers
Archer	Grandy	Nagle
Armey	Green	Natcher
Aspin	Gunderson	Neal (NC)
Atkins	Hamilton	Nichols
Baker	Hammerschmidt	Nowak
Ballenger	Hancock	Nussle
Barnard	Hansen	Oakar
Barrett	Harris	Oberstar
Barton	Hastert	Obey
Bateman	Hatcher	Olin
Bentley	Hayes (LA)	Ortiz
Bereuter	Hefley	Orton
Bevill	Hefner	Oxley
Bilbray	Henry	Packard
Bliley	Herger	Parker
Boehlert	Hoagland	Pastor
Boehner	Hobson	Patterson
Boucher	Holloway	Paxon
Brewster	Horton	Payne (VA)
Brooks	Houghton	Pease
Broomfield	Hubbard	Penny
Browder	Huckaby	Perkins
Bruce	Hunter	Peterson (FL)
Burton	Hutto	Peterson (MN)
Bustamante	Hyde	Petri
Byron	Inhofe	Pickett
Callahan	Ireland	Pickle
Camp	Jacobs	Porter
Campbell (CO)	James	Price
Carper	Jenkins	Pursell
Carr	Johnson (CT)	Quillen
Chandler	Johnson (TX)	Rahall
Chapman	Johnston	Ramstad
Clement	Jones (GA)	Ravenel
Clinger	Jones (NC)	Ray
Coble	Kanjorski	Reed
Coleman (MO)	Kasich	Rhodes
Combest	Kleczka	Richardson
Costello	Klug	Ridge
Coughlin	Kolbe	Riggs
Cox (CA)	Kolter	Rinaldo
Cramer	Kopetski	Ritter
Crane	Kostmayer	Roberts
Cunningham	Kyl	Roe
Dannemeyer	LaFalce	Roemer
Darden	Lagomarsino	Rogers
Davis	Lancaster	Ros-Lehtinen
de la Garza	Lantos	Rose
DeLauro	LaRocco	Roth
DeLay	Laughlin	Sabo
Derrick	Leach	Santorum
Dickinson	Lent	Sarpalius
Dicks	Levin (MI)	Sawyer
Dingell	Lewis (CA)	Saxton
Dixon	Lewis (FL)	Schaefer
Dooley	Lightfoot	Scheuer
Doolittle	Livingston	Schiff
Dornan (CA)	Long	Schulze
Dreier	Lowery (CA)	Sensenbrenner
Duncan	Luken	Sharp
Early	Machtley	Shaw
Edwards (OK)	Manton	Shays
Edwards (TX)	Marlenee	Shuster
Emerson	Martin	Sikorski
English	Martinez	Sisisky
Erdreich	Matsui	Skaggs
Espy	Mavroules	Skeen
Evans	McCandless	Skelton
Ewing	McCollum	Slaughter (NY)
Fascell	McCrery	Smith (IA)
Fawell	McCurdy	Smith (NJ)
Fazio	McDade	Smith (OR)
Feighan	McEwen	Smith (TX)
Fields	McGrath	Snowe
Fish	McHugh	Solarz
Flake	McMillan (NC)	Solomon
Ford (TN)	McMillen (MD)	Spence
Frank (MA)	McNulty	Spratt
Franks (CT)	Meyers	Staggers
Frost	Michel	Stallings
Gallegly	Miller (OH)	Stearns
Gallo	Miller (WA)	Stump
Gaydos	Moakley	Sundquist
Gekas	Molinari	Swett
Geren	Mollohan	Swift
Gibbons	Montgomery	Synar
Tallon	Unsoeld	Weldon
Tauzin	Upton	Williams
Taylor (NC)	Valentine	Wilson
Thomas (CA)	Vander Jagt	Wise
Thomas (GA)	Vento	Wolf
Thomas (WY)	Volkmer	Wylie
Thornton	Vucanovich	Yatron
Torres	Walker	Young (AK)
Towns	Walsh	Young (FL)
Traxler	Weber	Zeliff

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—14

Bilirakis	Dymally	Savage
Boxer	Guarini	Slaughter (VA)
Brown	Hopkins	Tanner
Bunning	Lloyd	Whitten
Campbell (CA)	Rowland	

□ 1540

Mr. MINETA and Mr. JEFFERSON changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1540

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 102-281.

AMENDMENT OFFERED BY MR. BARNARD

Mr. BARNARD. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BARNARD: Page 213, beginning on line 1, strike out all of title IV through page 426, line 9, and redesignate the succeeding titles and sections (and references thereto), and conform the table of contents accordingly.

The CHAIRMAN. Under the rule, the gentleman from Georgia [Mr. BARNARD] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia [Mr. BARNARD].

PARLIAMENTARY INQUIRY

Mr. BARNARD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BARNARD. Mr. Chairman, who has the privilege of closing the debate?

The CHAIRMAN. The Chair will inquire, is the gentleman from Texas going to oppose the amendment?

Mr. GONZALEZ. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. GONZALEZ], at the appropriate time, will be recognized for 20 minutes and will have the privilege of closing debate.

Mr. BARNARD. Mr. Chairman, I also wish to inform the Members that I am yielding 5 minutes of my time to the ranking minority member of the committee, the gentleman from Ohio [Mr. WYLIE], and he will control those 5 minutes.

The CHAIRMAN. Without objection, the gentleman from Ohio [Mr. WYLIE] will control 5 minutes of the time.

There was no objection.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Chairman, let me begin by reminding the Members that the agreement reached by the gentleman from Michigan [Mr. DINGELL] and the gentleman from Texas [Mr. GONZALEZ] has become original text under the rule, and title IV is part of the original text under this agreement. A number of us here are asking today that that title be stricken.

We strongly believe that title IV should be stricken because it is counterproductive and it is going to weaken banks, not strengthen them, it is going to make banks more likely to fail, and it will make the price tag to the taxpayers in the end more costly, not less costly.

Now, in the debate on this motion, we will hear from the opponents a lot of allegations that we are replaying Garn-St Germain, and that we will do that unless this proposal stays in the bill. Let me indicate that that is simply not the case.

We on the Banking Committee were not born in the last century. We worked very, very hard to make a series of regulatory improvements so that we will not relive Garn-St Germain. Let me indicate what some of those regulatory improvements are that are in title I and title II of the bill. It is not the case that we are reliving Garn-St Germain. Here are some of those regulatory improvements:

Annual onsite examinations for banks, which will be required of every bank in the country for the first time in history; prompt corrective action and early intervention for failing bank systems, which requires the regulators to get in there early when there is the first sign of weakness and take a series of mandatory actions; restrictions on broker deposits, which will reduce the insurance fund's exposure to troubled institutions; and risk-based deposit insurance premiums, which will make it costlier for banks to engage in risky activities.

Mr. Chairman, there would be no direct investment of insured deposits in the stock market or in commercial or real estate projects.

Let me emphasize all the things we are doing in title I and title II to strengthen the regulatory system at considerable cost to the banks for safety and soundness purposes so that we will not have a replaying of the S&L crisis. So when Members hear the rhetoric that we are inviting another Garn-St Germain, they should reject it and support this motion to strike title IV.

Mr. GONZALEZ. Mr. Chairman, I rise in opposition to this amendment, and I yield myself such time as I may consume.

Mr. Chairman, this amendment protects some of the biggest of the big banking corporations from proper regulation. Some three dozen of the big holding companies have slipped through the Glass-Steagall Act. They have taken advantage of loose regulatory interpretations and formed so-called section 20 subsidiaries to engage in securities markets. Rulings by the Office of the Comptroller of the Currency have allowed other banks to escape the Glass-Steagall barriers.

All these activities will be brought under the regulatory provisions of title IV, but if the title is stricken, the J.P. Morgans, the Chase Manhattans, the Citicorps, and other big banks would be home free. In addition, of course, the striking of title IV would wipe out an opportunity for the House to set up a rational, safe structure for security powers in place of the hit-and-miss loophole process now being employed by the regulatory agencies.

Title IV contains safeguards for the public and for public moneys. The banks oppose these safeguards. They want benefits without responsibility. The Congress should represent the public and not cave in to this blatant, all-or-nothing demand from the banking industry.

A decade ago an almost identical test was before this House. The House failed that test and voted to let the savings and loan associations expand into these new hazardous activities. The House has a make-up test today. A passing grade requires keeping title IV and public safeguards in this bill.

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

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, we are here today because our country needs a safe, sound, and vigorous banking system. We don't need this banking system for the sake of bankers. We need it for the sake of our whole economy—for small businesses, for consumers, homeowners, savers—everyone.

Mr. Chairman, there are problems with our banks today. Historically, banks made a living by lending to business and consumers. At one time, most of this business was theirs. But things have changed. Big companies now go directly to the market for money; they issue their own commercial paper on Wall Street or go to large nonbank lenders like General Electric [GE] Credit, bypassing the banks. Often consumers also bypass banks. Automobile companies, for example, finance the cars they sell. The largest issuers of credit cards include Sears, American Express, and AT&T. Department and other stores also often offer their own credit cards or other credit.

Consequently, the ability of banks to make money has been severely curtailed. To maintain a healthy, safe, sound banking system, we need to recognize that changes have taken place and to modernize the system accordingly. If we do not, the industry may not be able to pay its own way and ultimately taxpayers may be called upon to make good on the promise of deposit insurance.

When I first arrived here in the mid-1970's, when Henry Reuss was chairman of the Banking Committee, we had long, exhaustive studies of these issues and the publication of the FINE "Financial Institutions in the National Economy report. That had been preceded by the Hunt Committee Report in 1971. Then in the 1980's the Reagan and Bush administration conducted studies. The Federal Reserve and others also have engaged in exhaustive studies.

Almost everyone who has spent time on the subject has come to that conclusion. Again, we need this reform of banking laws not for the banks, but for all of America—for small business, for consumers, for taxpayers, for savers. We need a safe, sound, competitive banking system—to foster a strong economy, to provide jobs for our people, to be able to compete in international trade.

Mr. Chairman, the conclusion of almost everyone who looks at the banking system is that banks should be able to diversify, to increase their opportunities for earnings and to decrease the likelihood of losses and financial difficulties. Banks should be able to diversify geographically and also in terms of products and services. It has been said that banks have been said that banks have engaged in bad real estate loans, loans for leveraged buyouts, and so on. This is all true, but part of the reason they have taken these risks is because of limitations on what banks can do. Since much of their traditional business is now going to others, banks' opportunities to earn and grow have been limited.

If we were talking about any other kind of business, you might ask, "Why do we care? Let the marketplace sort it out." The reason Congress has to worry about the profitability and soundness of banks is that the Federal Government ultimately stands behind the deposit insurance system at banks, savings and loans, and credit unions. If banks can't compete and survive in the marketplace, the taxpayer may wind up paying the bill.

Mr. Chairman, one reform that clearly can help is the expansion of interstate banking and branching. A bank that operates in more than one region can spread its risk. It is less likely to be devastated by a regional recession—as the banks in Texas and New England were—if it also operates in other areas where the economy is stronger. Geographical diversity can lead to real strength. And interstate branching also can lead to much greater efficiency by reducing duplication in

bookkeeping, personnel, and other functions.

It has been said that only the big banks want and need to offer new products and services. To some extent that is true. Smaller banks can continue to do what banks have done throughout history and do very well. Many are thriving by doing just that. But the country also needs larger banks if we are going to be fully engaged and competitive in an international economy. If we want to create new opportunities and a better standard of living for our people, then we have to have a number of banks big enough to operate effectively in the international arena—big enough to deal with and compete with other world-class banks and to help finance our exports. Recent testimony in the House Banking Committee indicated that small community banks—probably over 10,000 of the 12,500 banks in business today—provide only about 17 percent of the credit needs of this country. Obviously, we need healthy large banks also.

As I said, Mr. Chairman, almost everyone who studies these issues comes to the same conclusions. Our Financial Institutions Subcommittee, which spent a lot of time and energy on this subject, also came to the same conclusions. We on the subcommittee passed our version of the banking bill, which was essentially the administration's bill. The vote was unanimous, 36 to 0. Democrats, Republicans, liberals, conservatives from all over our country all came to essentially the same conclusion: We need to modernize the system.

But lately the water has been muddied. There has been widespread misunderstanding of what our banking committees have done. The perception has spread that our bill does for banks what Congress and the administration did for the S&L's in the early 1980's. This is a totally incorrect perception.

When the S&L's experienced great difficulties in the early 1980's, their capital requirements were reduced at the same time they were allowed into commercial lending activities like junk bonds and direct investment in real estate—all with insured deposits. At the same time, supervision and regulation of S&L's were greatly curtailed. This proved to be a recipe for disaster.

Mr. Chairman, our Banking Committee learned from the disastrous S&L experience and took precisely the opposite approach with banks.

In our bill, we raise capital requirements and improve capital enforcement. We improve and expand supervision and regulation. We don't allow any expanded activities with insured deposits. New activities can only occur in separately capitalized, separately regulated affiliates.

Mr. Chairman, let me say it again so it will be clear. Our committee learned from our country's disastrous experience with the S&L's and has recommended an entirely different course for the banks.

Now, however, we have a problem with the bill before us. The Banking Committee passed a very good bill. Our bill improved regulation and supervision. It called for early intervention when banks get in trouble. It increased capital requirements. It permitted sound steps toward modernization, geographic diversification, and new products and services.

But, Mr. Chairman, because of parliamentary maneuvering and committee rivalry, title IV of our bill has been replaced with a new creation by Chairmen GONZALEZ and DINGELL. Title IV was the title of our bill dealing with products and services. The Gonzalez-Dingell approach would not only prevent modernization of the banking system in these areas, but would turn the clock back significantly and harmfully. For example, under this approach, certain disclosure requirements that would apply to banks, but not securities firms that may also sell insured products, would essentially put banks out of the Government securities market, a longtime common business for them. This could cost taxpayers more to finance Government debt and expose the Government to a greater risk of manipulation and fraud. Second, banks could not offer mutual funds that included stocks of companies that have borrowed from the bank—essentially taking banks out of the mutual fund business. Third, the compromise prohibits banks from conducting discount brokerage activities within the bank, whether or not the bank is affiliated with a securities firm. Discount brokerage is essentially risk free and provides much needed fee income to banks. Fourth, interstate insurance sales, even in States where the bank is licensed to sell insurance products, would be banned. A number of banks do this today. And fifth, both the sale and underwriting of title insurance is prohibited—a low-risk activity many banks engage in today. In fact, more than 20 percent of U.S. banks now sell insurance products. This looks to me like a cleancut case of a raid by the securities and insurance industries on what banks are doing now, not new products and services, but what banks are already doing and have done for many years. Now, Mr. Chairman, I like and respect all of these industries. Chairmen GONZALEZ and DINGELL are fine men and are among our most capable leaders, but we must vigorously oppose the changes they have made in this bill. If we do not, the taxpayers will pay a high price.

Mr. Chairman, the bill before us allows the banking industry to borrow some money to meet its short-term needs, then provides for bank insurance premiums to be applied to paying back this debt. But if we don't modernize the banking system, don't allow the banking system to make a living and pay its own way, then it will not be too long, I predict, before it will be back seeking taxpayer money. Mr. Chairman, I oppose any attempt to simply provide taxpayer loans to bail out failing banks without necessary reforms.

The Gonzalez-Dingell approach, in my opinion, virtually guarantees that the banking industry will be forced to seek taxpayer money from the Congress within a reasonably short period of time. We simply cannot afford to take that chance. We should delete title IV. We will be far better off without it. The status quo is better than a step backward.

Mr. Chairman it is an absolute tragedy that we can't move ahead with more significant banking reform, like that reported by the Banking Committee, at this time. But if we cannot, we must at the very least defeat this effort to reduce the ability that banks already have to pay their own way.

Mr. Chairman, I would like to briefly comment on several other aspects of this subject.

DEPOSIT INSURANCE

The Bush administration is claiming that it wants to limit deposit insurance, but that Congress won't go along with it on this much needed reform. Here's how the administration wants to limit deposit insurance. It would say that each person could have no more than $100,000 insured in a bank and another $100,000 IRA account insured. What they don't tell you is that under their proposal each individual could have these two $100,000 insured accounts at each of over 12,000 banks, over 14,000 credit unions, and 2,000 savings and loans. Their limitation on deposit insurance would be purely cosmetic.

INTERSTATE BANKING

Another myth regarding this bill is that if interstate banking is allowed, money will flow out of small communities to the big money center banks. This contention is not borne out by facts. My State of North Carolina, for example, has three big regional banks. We also have about 80 small- or medium-sized banks which do very well. Big banks are not taking money out of the small communities. It is the genius of our system that money flows to where it is needed.

THE CORE BANK PLAN

There are very serious problems with the core bank proposal. We now have in this country what some call a credit crunch. Many small businessmen who previously had been able to get loans are being turned down by banks. Regulators are reported to be cracking down, banks are trying to build up their capital, and for these reasons some banks are making fewer loans—even good loans—in this time of recession. The core bank proposal would

shrink the size of the banking industry by around 30 percent—somewhere between 25 and 35 percent. Think about it. It already is difficult for small business to borrow money. Under the core proposal we would shrink the pool of funds for small business and consumers by another 25 to 35 percent.

The core bank idea does share a certain appeal, but it would create a massive credit crunch in our country and must not be adopted.

Mr. Chairman, I respectfully urge our colleagues to support the amendment to strike title IV of H.R. 6, resist the core banking proposal, and support the reforms in our bill.

It is shortsighted that we will not be able to achieve more real reform in this bill, Mr. Chairman, and I hope that the House will return to this subject soon.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. LENT], the ranking Republican on the Committee on Energy and Commerce.

Mr. LENT. Mr. Chairman, in my 2 minutes I would like to very quickly make two points. The best argument that can be made in favor of this motion to strike is that it will eliminate all of the confusion over bank powers, firewalls, functional regulation and underwriting, and it will restore current law.

The effect of this motion, if successful, will be to eliminate the controversial Dingell-Gonzalez agreement, which was not considered in any subcommittee, not in any full committee, either in the Committee on Banking, Finance and Urban Affairs, or the Committee on Energy and Commerce. But it was hatched in some smoke-filled room with only one member of the Committee on Banking, Finance and Urban Affairs present, and that was the chairman, the gentleman from Texas [Mr. GONZALEZ]. We learned this from the chairman himself during the Rules Committee consideration.

Oh, yes, Chairman DINGELL had his subcommittee chairman in the room. The gentleman from Massachusetts [Mr. MARKEY] was there. The gentlewoman from Illinois [Mrs. COLLINS] was there. But not one subcommittee chairman, not even a freshman member, from the Committee on Banking, Finance and Urban Affairs was present.

Point No. 2, for those Members who like the insurance provisions in the Dingell-Gonzalez amendment, be advised that the entire text of the Jimmy Hayes amendment proposed at the request of insurance agents will be included in the Republican motion to recommit with instructions. So if you are considering a vote against this motion to strike, think again. You can vote for the motion to strike and then vote in favor of the insurance agents provision.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, may I pose a question for us to consider: Why does the banking industry make so little money today? There are a number of reasons. Principal among them is that other deliverers of financial services have skimmed off much of the profit from products that were once major profit centers in banks.

Take credit cards for example. We do not have to go to a bank any more to obtain a multipurpose credit card. We can get one from our insurance company, from our auto manufacturer, or from AT&T, our long distance telephone company, to mention but a few.

Take car loans, too. We do not have to go to a bank for a car loan any more. We can go to GMAC Financial, Ford Financial, or to Chrysler Financial.

We do not have to go to a bank for a home mortgage. Many go to Sears, apparently the biggest originator of home mortgages in America today.

Nor do we have to go to a bank for a business loan. We can have an investment banker issue commercial paper or to issue long-term debt for us.

As the result of these encroachments, banks have come to put too many of their eggs in one basket. Too many of their eggs are now in the real estate and commercial lending basket, and as banks' traditional business has dried up, the business of the loans they still can make has risen.

Well, what do we do about it? That is what we are about today. What do we do about this situation.

My fear is if we adopt the bill as it comes to the floor, we do two things: we add to the regulator. Burden and associated costs for banks, and I believe some of that is unavoidable. We also reduce the ability of banks to make money. We further restrict their activities beyond that which is permitted by current law.

By striking this title, by striking title IV, we would set aside for now, the most contentious issue that divides us. There is no consensus on them; instead, there is enormous confusion on those issues.

Let us narrow the scope of this bill to cover those issues on which there is general agreement. Let us extend a line of credit to the FDIC so depositors in prized banks may receive their funds. Let us reform—in a modest, sensible way—deposit insurance. And, finally, let us permit some modest branching of banks across State lines.

To do those three things, to keep this measure relatively simple and straightforward, adopt our motion to strike title IV.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the reason the commercial banks are in trouble in this country is because they loaned money to Third World countries, because they loaned money on these LBO's that have all caved in, because they loaned money to commercial real estate interests that have built more commercial real estate than this country is going to need for the next 5 years. That is why we have trouble.

Now, they are saying to you now the solution is to let them into the securities industry, that lost itself $160 million last year all alone. They want to get into this business without safeguards, without firewalls, without protections for depositors, for investors, for taxpayers.

We already had a vote on this in 1982 for the savings and loan industry. Plenty of new powers, no safeguards.

The 1990's, we are going to have to pay $500 billion to bail out the S&L's. $500 billion? That is a national health care program for the 38 million people in this country that do not have any health insurance. $500 billion? That provides a good education for every child in our country. $500 billion? That rebuilds the infrastructure of this country. That will provide for the money for unemployment insurance that we need for the millions of people across this country with no job.

They ask you today to repeat the same mistake: new powers with no supervisions, with no regulations, with no firewalls.

We will give them the powers. That is what Dingell-Gonzalez does. We will allow them out with new responsibilities, with new opportunities. But we will make sure that in the end it is not the taxpayers, it is not the depositors, it is not the investors who are going to be left holding the bag, paying the bills. Because before this year is done, 70 billion for the commercial banks, 80 billion more for the S&L's. Do not go down that path.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho (Mr. LAROCCO).

Mr. LAROCCO. Mr. Chairman, as a member of the Subcommittee on Financial Institutions of the Committee on Banking, Finance and Urban Affairs, I have an inkling of what the House banking bill is all about. After all, we held 16 long days of hearings and 14 days of markups in subcommittee and full committee. We debated more than 300 amendments. I can tell you what I know about the banking bill: it is not a deregulation bill. It is a bill that responds to the financial realities of the nineties. Think of that. It is a bill that recognizes what goes on in the real world.

Members want to keep banking and commerce separate, but you are too late. Ford Motor Co. owns an FDIC-insured depository, an insurance company, a real estate company, and a mortgage and finance company.

Sears owns an FDIC-insured depository, a securities firm, an insurance company, a real estate company, and a mortgage and finance company.

What about American Express, which owns an FDIC-insured depository, a securities firm, an insurance company, and so on?

Banking. The Committee on Banking, Finance and Urban Affairs tried to deal with the real world. We dealt with safety and soundness provisions, and did a good job. We tried to end too-big-to-fail, and we did. We required early intervention. We set up strict high capital standards.

This bill that we are talking about today in title IV is not warmed over Garn-St Germain. That was not the bill that we reported out of the Committee on Banking, Finance and Urban Affairs. Those are not the goblins and ghoulies of Halloween here.

That bill lowered capital standards. That bill, unlike ours, did not require annual audits, because it did not. The regulators let bad S&L's go on for too long.

It was mentioned in earlier debate that the core banking provisions and that amendment was the only reform package we had today. Do you know what the other reform package was? The House Banking, Finance and Urban Affairs bill, but we did not get a chance to vote on that.

I can tell Members all about the firewalls in the bill of the House Committee on Banking, Finance and Urban Affairs. They were large. I can tell Members about how it takes away the regulators' discretion to ignore bad banking practices.

Mr. Chairman, let me tell Members that that bill was bipartisan. Let us vote for the Barnard-Hoagland motion to strike.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the motion of the gentleman from Georgia [Mr. BARNARD] to strike title IV. What we have in title IV actually reduces bank insurance powers under current law, further decreasing competition.

I also have serious concerns about the security portion. Few of us realize that over 80 percent of the underwriting of securities in this country is concentrated in five firms. Although the Dingell-Gonzalez version does allow corporate securities underwriting and sales, which should increase competition and enhance access to capital by small- and medium-sized businesses, the firewalls created are unnecessarily restrictive.

The best defense against abuse and self-dealing is ample competition. Under Dingell-Gonzalez, many banks will choose not to compete, leaving it all in the hands of five underwriters.

□ 1600

The Committee on Banking, Finance and Urban Affairs' version of both insurance and securities provisions would have been far superior. Current law is our best option at this point.

Accordingly, I urge my colleagues to support the motion to strike title IV.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. Mr. Chairman, I am here today to speak on behalf of what I think is a fine compromise in the Dingell-Gonzalez substitute for this bill. The fact is that this Congress ought to deal with a better understanding of what is taking place on the Committee on Banking, Finance and Urban Affairs and what is taking place with banks in our country.

Ten years ago this country controlled 8 out of the top 10 banks in the world. Today we control 1 out of the top 50, and it is number 26. The fact is that that bank lost $850 million last quarter.

The banks in this country are in trouble, but we have 14,000 banks in the United States. We have more banks in the State of Texas than the entire rest of the world combined.

Yes, banks have found themselves in trouble, but those troubles have been passed right along directly to the American consumer, to the American taxpayer, and through no fault of that taxpayer.

We are now going to be bailing out the savings and loans to the tune of $1 trillion, and we are going to be bailing out the commercial banks, as was recently estimated by Mr. Siedman, to the point of $210 billion in this next year alone.

Let me just say, if we want to do something about building firewalls between what these banks want today and what they had 30 or 40 years ago, when they ran this country into the ground in the Great Depression, if we want to stand up to those institutions and tell them that, yes, they can have more powers, but no, they are not going to be able to break through the firewalls and come through those firewalls with whatever companies they want to have in the banking industry, getting whatever kinds of investments they care to and tell us, as the savings and loans told the people of this country, just give us a few more powers and let us grow out of our problems, if that is what we want to do, then we ought to go back to the banking system as it exists today and let the regulators take control of the banking system. Let the bankers come back in here, a couple years from now, with their new compromises that will again leave the American taxpayers on the hook.

It seems to me if we want to have a good, reasonable compromise on how to gain some more competitiveness in the American banking system, that we will endorse and support the compromise of the gentleman from Texas, Chairman GONZALEZ.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from North Carolina [Mr. PRICE].

Mr. PRICE. Mr. Chairman, I rise today to support the Barnard-Hoagland amendment. This amendment would strike title IV, which contains the Gonzalez-Dingell compromise on financial restructuring.

I do so reluctantly, because I believe strongly that this House should legislate on these very important issues. Striking title IV would return us to the status quo, at least temporarily, and the status quo is not satisfactory. What we ought to be voting for is title IV as reported by the Banking Committee. The rule does not permit this, which is why I voted against the rule. And now we are faced with a version of title IV, the Gonzalez-Dingell compromise, which would weaken our banking system dangerously. The status quo needs changing, but this provision would make it worse.

I want to focus my remarks today on the importance of the legislation for the South, and the stakes for the South are tremendous. It is no accident that southern members on the House Banking Committee, both Republicans and Democrats, have been among the strongest supporters of true banking reform legislation, both in 1988 and this year.

By opening up the capital markets to more competition, the House Banking Committee version of title IV would have made it more likely that companies or local governments in the South could deal with financial institutions located in their own States and communities. These institutions know these companies and governments, have a stake in their community, and would help bring needed capital into my region and other regions. The Gonzalez-Dingell compromise, by contrast, would not only fail to do this, but would actually encourage the future concentration of the securities industry.

The House Banking Committee's original provisions to protect abuses from the affiliation between securities firms and banks were more than adequate: Separately capitalized affiliates, tough restrictions on activities between these affiliates, and a prohibition on the use of federally insured deposits to fund these securities activities.

A well-structured reform proposal, in my opinion, would increase competition in all these industries, provide effective and efficient supervision and regulation of all these industries, and provide consumers with more financial choices and lower prices. The Gonzalez-Dingell compromise meets none of these tests.

The Gonzalez-Dingell compromise, though it flies under the banner of reform, is basically designed to protect the securities industry. The securities industry is highly concentrated, much more concentrated than the banking industry. Companies trying to raise capital in securities markets and local governments trying to raise money through revenue bonds to make needed infrastructure improvements have to mainly deal with securities firms with their headquarters in New York.

I ask all of you what is so great about allowing New York firms to make profits on our local communities and then use them to pay exorbitant salaries to the young Gordon Gekko's of the world. I want strong local and regional institutions to be able to compete in this business. They could do so successfully and safely, and they would reinvest in the community and in the region.

We've heard a lot of stories about villains in the banking industry today, seeming to suggest that because of some bad individuals, we should punish an entire industry. If that is our standard, the securities industry deserves some pretty rough treatment considering Ivan Boesky, Mike Millken and others. They clearly do not deserve to be given a safe haven from competition as in the Gonzalez-Dingell compromise.

If people are concerned about community reinvestment, they will support the striking of this title. Unfortunately, for now, this is the only option available to us, to make sure we do not weaken our banking system further. We can and must develop positive provisions to maintain safety and soundness and also to strengthen our communities, our financial system, and our economy. But we must first strike this counterproductive provision.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I rise in opposition to the Barnard-Hoagland amendment, and at the same time I want to express my great respect and admiration for the gentleman from Georgia [Mr. BARNARD], my colleague and friend, and the gentleman from Nebraska [Mr. HOAGLAND]. The gentleman from Georgia [Mr. BARNARD] is one of the most knowledgeable members of the committee, and I reluctantly oppose the amendment. But I think that there has been a compromise on all parties in order to achieve a common goal.

I do not like all elements of the compromise. I was for diversified holding companies. It is not in there. I wish it were.

The Barnard-Hoagland amendment will delete all provisions of the compromise title IV which was negotiated by Chairmen GONZALEZ and DINGELL, which forms the underlying text under consideration by the House.

The compromise title IV of the bill is a true compromise. Almost by definition, a true compromise means that all parties have had to give up something in order to achieve a higher goal. In the case of this bill, all parties involved had to give up something in order to advance the process of reforming the outdated laws governing our financial system. This is clearly the case for this compromise legislation.

For example, the text of the compromise does not allow the creation of diversified holding companies. I supported that. This is an important provision included in the Banking Committee version of title IV. However, the Energy and Commerce Committee version of title IV would not have allowed banks to engage in any insurance activities. The compromise includes almost all of the Banking Committee provisions regarding the ability of banks to sell insurance. These two examples illustrate that the compromise text of title IV is a true compromise.

It will leave a largely positive mark on the financial industry. The clearly outdated Glass-Steagall provision which has existed for over 50 years is finally repealed by the compromise. This is a clear victory for common sense. Our financial industry has changed dramatically over the last 50 years and it is about time our laws were updated to reflect this important fact. Repealing the Glass-Steagall Act is a strong step in the proper direction.

In addition, the compromise contains an amendment I offered during the full Banking Committee markup which is an important safeguard of taxpayer funds. The provision follows a similar proposal I offered which was accepted in the FIRREA legislation of 1989. Simply stated, the provision will save hundreds of millions of dollars to taxpayers and will permit insured banks and thrifts to combine their operations. This is an important part of title IV since it allows private capital—not taxpayer funds—to be used for banks or thrifts which may experience problems. Clearly, this amendment, which enjoyed unanimous bipartisan support during the full committee markup, is responsible legislation which will protect the taxpayers. Voting to delete title IV would also remove this important provision.

Another positive aspect of the compromise title IV is that it retains most of the so-called firewalls proposed by the Banking Committee. Firewalls are necessry to prevent an unsafe mixing of commerce and banking activities; they are a safeguard of taxpayer money which is backing the deposit insurance system. While I, too, wish the final version of the firewalls would have not modified the firewalls proposed by the Banking Committee, they still provide important protection against losses by the taxpayers.

Moreover, title IV is part of the central effort of this legislation; namely, to bring about true reform of the financial system of our country. For many years, it has been obvious to most members of the Banking Committee that basic reform of the financial system is in order. Our banks are now experiencing difficulty in their competition with foreign banks, primarily because of the fact that more than 20 foreign banks are larger than the largest U.S. banking organization. This means our banks often don't have the ability to provide the amount of funds needed by their international customers at a reasonable rate. Continuing to lose this international competition against our economic competitors would be a vast economic defeat for our economy and our Nation as an international leader.

In addition, it is time to recognize that our financial industry is operating in conditions which are vastly different from the conditions which existed 50 years ago. Today, computers, satellite communications, fax machines, and a host of other technologies as well as new financial products exist which have greatly changed the financial environment. This change has resulted in a much more integrated financial services market which is capable of offering more products to customers. I think consumers have benefitted from many of these changes. As a result, I believe our legislation must reflect these changes and permit the industry to meet the challenges of the future. The compromise represented in title IV is a first step in that direction.

Finally, the compromise reasserts the congressional responsibility to lead in the area of financial services reform. For many years, the regulators and the courts have taken it upon themselves to bring about changes which should have been the result of carefully considered legislated changes supported by elected officials. The courts and the regulators should no longer be permitted to do the work of the Congress.

Mr. GONZALEZ. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to this amendment. There is an idea floating out there in the ether that if we move to strike title IV, we are being neutral. Well, we are not putting anything in. We are not dealing in any way with it. So, therefore, it is right down the middle. Hogwash.

If we strike title IV, we are weakening this bill to the point of death. If we strike title IV, we are not putting in the moderate protections that the Committee on Banking, Finance and Urban Affairs originally put in. We are putting in no protections at all.

□ 1610

And the regulators, who have proven to want to deregulate and deregulate,

they do not look at the Treasury, the Federal Reserve and the OCC, particularly the Fed. They do not look at the loss to the Treasury. They simply look at the health of the banks, and the health of the banks goes up and down. And they let them into new industries, and for a few years they make profits. And then the plug is pulled and they lose money, and the taxpayer, not the Fed, is left holding the bag.

This deregulation will go on like a frenzy if we strike title IV. Taxpayer dollars will be used for all kinds of new activities.

I have been told we should not strengthen the securities industry in New York. That is right. But let me say something. The securities industry in New York is not insured by the taxpayer. Anyone can pop up and decide to get into the securities industry, and if they fail they lose their money, not your constituents' money.

But when the banks get into these new fields they lose taxpayer money. Unless we have firewalls, we cannot protect the taxpayer.

Do not vote for this amendment or we will cripple this bill so that it will be a travesty.

Mr. GONZALEZ. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Chairman, I thank the gentleman for yielding time to me.

I want to also emphasize the fact that striking title IV is not a vote for the status quo. Rather it is a vote to let the unelected regulators and judges decide these issues as they have for the past few years. And believe me, they have not done the best job of it.

If Members want to delegate their powers to the unelected bureaucrats, then vote to strike. But if they want to be responsible Members of Congress, then I urge them to oppose this amendment.

I want to remind my fellow Members that the effect of this amendment will be to eliminate all of the important provisions of title IV. For example, title IV closes a loophole opened by the Comptroller of the Currency who ruled that national banks may sell insurance nationwide from a small town. Title IV clarifies congressional intent by limiting such sales to small towns in the State.

But indeed, there is a legal question as to whether the provision allowing national banks to sell insurance in small towns exists. Without the clarification of this legislation, national banks could lose all of their powers to sell insurance in small towns.

The provisions of the legislation give States the opportunity to decide whether out-of-State banks should be allowed to sell insurance in their State. What could be fairer than that? Yet that provision would also be stricken by this amendment.

Title IV includes important consumer protection when banks sell insurance. In particular, it forbids the solicitation of insurance required by a loan until there is a written loan commitment. It also protects consumer confidentiality.

These crucial consumer protections would be lost if the motion prevails. Further, already consumers have lost some of their confidence in insurance. This has been caused by insurance failures like that of Executive Life and Mutual Benefit Life. As a result of those insolvencies, insurance companies' stocks fell sharply. For example, Aetna by 8 percent, Cigna 3 percent, Conseco 22 percent, Travelers 7 percent. And who was hurt by this? People like Olga Pegelo, who is losing 30 percent of her retirement annuity benefit, John and Jane Q. Public who put their kid's college education money in guaranteed investment accounts, and senior citizens whose pension funds were put into such GIC's.

Now if banks are allowed to get into insurance sales or insurance underwriting and the bank's insurance activities fail, consumers will lose confidence in the banking industry. As Chairman DINGELL points out: banking is not about money, it is about confidence.

And if you support the insurance provisions of the bill, I would not rely on a motion to recommit, because you don't know what else may be in that motion. I doubt it will contain our strong consumer protections.

We are cheating the homeowners who are trying to buy their own homes and save a little money for their kids' college education. We are cheating the senior citizens whose pension funds have been put in insurance. Do we want to do this to our constituents? Do we want to do this to our banking system? The answer is no.

Both the Banking Committee and the Energy and Commerce Committee have spent an untold amount of time prudently examining all of the very important issues contained in title IV regarding financial services. When such a good faith effort has been made by the two committees with primary jurisdictional interest, it is inconceivable to me that anyone would be willing to push all that aside simply because they don't like the results.

The issues raised in title IV were around in 1988, they are here now, and they will be back again in future years until we resolve them. It makes no sense to pass this banking legislation without title IV. Many of us wanted a narrow bill originally but the administration asked us to consider a broad bill. Well now we have a broad bill and those who were originally asking for a broad bill don't like the results. Now that is ironic and unfortunate.

Let me also point out that title IV is supported by a wide variety of groups, from the Consumer Federation of America to the American Insurance Association, from the Independent Bankers Association of America to the Independent Insurance Agents of America.

I urge rejection of the amendment.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I rise in support of the Barnard amendment. But I would stress that the compromise language on title IV wrought by the distinguished chairs of Energy and Commerce and Banking Committees is clearly preferable to the title approved by the Banking Committee. For instance, under the compromise, banking and commerce would remain separated. However, the manner in which this compromise is being brought before this body is a procedural problem of profound proportion. The extensive statutory language contained in this compromise has been under scrutiny for only a couple of days. It is uncertain what changes would be made in the compromise language and if this is the time to make such changes to a fragile banking system. It appears that the compromise approach represents a son of Glass-Steagall, which in some ways would construct more impervious barriers than the original Glass-Steagall wall between commercial banking and investment banking.

Many of the safeguards incorporated in the compromise title IV seem reasonable to this Member.

My opposition to the compromise is derived from the concern that it has not been properly vetoed and that a more narrow bill is now the only banking legislation which can pass this session without risking a Presidential veto.

The most important aspect of this bill at this date is the refurbishment of the troubled FDIC bank fund. Let's not play games with the American public's confidence in the banking system.

I would stress, however, that a compromise decision to strike title IV would not represent a signal for regulators to mount motorcycles of change. In thrashing through these issues, Congress is flashing a yellow, not a green, light for expanding bank powers. Regulatory caution on this subject should be the watchword.

Mr. WYLIE. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am pleased to support the Gonzalez-Dingell compromise. I urge my colleagues to oppose the amendment to strike its provisions from H.R. 6.

Mr. Chairman, I am particularly interested in the insurance provisions of the compromise. On this score the compromise is very carefully crafted to bar current excesses without overregulating.

Mr. Chairman, there is absolutely nothing in title IV that would in any way limit the ability of my State to allow our banks to sell insurance. And that's very important to me, because Indiana banks have long enjoyed the power to sell insurance. I would strenuously oppose any effort to limit Indiana's freedom to make that decision.

But, by the same token, I must oppose efforts to limit the right of any State that chooses a different path. A State should be free to decide whether it wants banks to sell insurance to its citizens. Some States will say "Yes;" some States will say "No." But all of the States will listen to their citizens and reflect their desires.

Mr. Chairman, the Gonzalez-Dingell compromise protects States rights. Consider the small town exemption that is now found in the National Bank Act. The Comptroller has ruled that a national bank can set up shop in a small town and then sell insurance to customers located anywhere in the State, anywhere in the United States, in fact, to customers located in any place at all.

That doesn't make any sense. Congress enacted the smalltown provision to permit the sale of insurance in small towns. We were concerned that rural residents might not have access to insurance services. But Congress did not intend to allow national banks to sell in big cities.

The Comptroller's ruling just makes the banking laws a game: A national bank can evade the limits on insurance activities just by using a small town as a launching pad to sell to residents of a big city.

Mr. Chairman, that result is the wrong result.

It's not enough to say that we should strike title IV in order to preserve current law. Congress is here to decide whether new laws need to be enacted. When a regulator or court reaches an absurd conclusion, it's up to Congress to act.

Whatever the result of today's debate, I hope we don't come to the day when legislation can be defeated just because it offers a new idea. Let the policies of title IV be debated on their merits. Let the rights of States be upheld.

Mr. Chairman, I urge my colleagues to defeat this amendment.

Mr. BARNARD. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana [Mr. BAKER].

Mr. BAKER. Mr. Chairman, I thank the gentleman for yielding time to me.

I wish to point out that the current provisions in title IV operate on a very simple and easily understood principle. "If something is broken, let us see if we can make it worse." The current suggestions for governing banks powers in the proposed title IV narrow the scope of activities which a commercial bank may engage in today, so that banks which are operating on razor-thin margins of profit are going to be told that if we adopt this title IV that they have to try to survive, meet higher capital standards, pay more regulatory costs, while they have a smaller field in which to do business.

This is all occurring while nonbank commercial enterprises are conducting bank activities. It is not a surprise that large commercial enterprises who used to go to banks and borrow money now extend their own commercial paper and get their credit needs met through the securities market. They are no longer customers of bank. Yet we heighten the regulatory net. We tell banks they cannot extend products and services, and ironically, we refuse to let commercial enterprises inject their resources into struggling banks. There will be amendment offered to allow commercial enterprises to help weak and sick banks, so we do not have to turn taxpayers and ask one more time, "Please help bail out a struggling institution." What the Banking Committee wanted to do was to allow commercial enterprises to engage and help strong banks get even stronger, and keep them from becoming risky enterprises.

What we have in title IV is not modern, progressive, sound, reasonable economic policy, it is the Bank of England's policy in 1634, except we are taking out the progressive parts.

Let us not adopt title IV as it now stands. Let us adopt the amendment of the gentleman from Georgia, which makes absolute sense. Let us keep our banks alive. Let us come back on another day and adopt a policy that gives free enterprise a chance to work, and keeps our taxpayers from being robbed.

Mr. GONZALEZ. Mr. Chairman, I am delighted to yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], another very distinguished member of the Committee on Banking, Finance and Urban Affairs.

Mr. VENTO. Mr. Chairman, I rise in opposition to the Barnard amendment to strike. This administration wants what every administration wants. They want $70 billion in new borrowing and all the flexibility they can get. They do not want Congress giving the type of direction and leadership that is necessary in terms of how those dollars are to be spent or the policy that govern banks.

One of the major problems is that the House is trying to put some limits on the exposure of the deposit insurance fund, and in this title, we put a number of restrictions and safeguards.

What has gone on for the last 10 years or 15 years is that Congress has not had the ability or the opportunity to legislate in terms of the new powers, and the regulators and the courts have been granting these powers hand over fist without the proper types of controls. The regulators have taken an attitude of hands off. We know all about the revolving door and the types of interests that persist in that phenomena and the difficulty of bringing this bill to the floor for so many years.

Reasonable people can differ about the types of firewalls, the types of safeguards that we have, and obviously the Energy and Commerce Committee and the Committee on Banking, Finance and Urban Affairs differed in terms of their particular provision, and the chairmen of the committees got together and worked out what is a good compromise and brought it to the floor. That is the normal process.

Now we have members of the Banking Committee saying, let us abdicate our responsibility here. Some do not like the outcome of what is in title IV of this bill. They say abandon it. They will leave nothing in place and give the administration the $70 billion they are asking for, and all the flexibility they want without any voice of Congress or the necessary safeguards in law.

That is not why we were elected to Congress, and I would expect that my colleagues were elected to serve here and want to make decisions, not abdicate their responsibility. We are receiving a lot of communication from small bankers and others who have indicated that their interests would be best served if we provided a path of certainty and predictability with regard to regulation in law, not regulations that can be changed. The President provided an example of that just last month when he unilaterally attempted to change the policy of bank forbearance.

□ 1620

He decided that FIRREA is too tough. All of a sudden, the President opts for liberalization in terms of credit, and that is an example of what happens when you get politics and policy mixed together. We need law, not political opinion and regulation.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Chairman, as I stated earlier this week, this bill started off well in the Banking Committee but it has been all downhill since. I am still amazed at the back-room, back-door product that came at the last minute and pretends to be a competitive policy.

Let me say it again: There are only two classes of people with capital for the banking industry. One is called investors, and one is called taxpayers. Once the investment community fully digests the direction of this bill, investors will take their dollars elsewhere. Investors will correctly perceive that Congress cannot deal with the bank charter obsolescence in a meaningful way, that Congress does not understand the principle of "diversification of risk," and that Congress is dooming a bank charter to extinction. When investors go, we'll have to tell our constituents to get out their wallets again.

One way to begin to turn the bill around is to delete title IV, an extremely dangerous title. This title does not undertake the modest product and service reforms of the original H.R. 6, but it strips away existing authority—it removes activities that have not caused losses to the bank insurance fund. In fact, these activities have helped bank profitability. It removes legitimate business from banks and further isolates a bank charter. This

title is going to lead to a lot of taxpayers owning a lot of banks and real estate.

Let me list some specifics:

First, the bill rolls back existing insurance powers on a broad level. We're divorcing banking from insurance except in very limited cases. The original bill had a compromise where insurance and banking could mix at the diversified holding company level. Both bankers and insurance people were grumbling. That usually means one has found the right compromise.—Now one party is jumping for joy while the other party cannot believe what has happened.

Second, the bill allows banking and securities activities to mix, but places such restrictive firewalls that few banks will take advantage of the provision.

Third, the bill forces national banks not having a securities affiliate to place mutual fund sales and brokerage activities in a subsidiary, increasing overhead for no practical reason.

Fourth, the bill changes for purely political reasons the grandfather date for State banks, within a holding company, to sell insurance nationwide for purely political reasons, thus harming one institution that has legally established the business.

The Bank Committee established a comprehensive structure that would have allowed for the safe-and-sound diversification of business, leading to improved profitability for the industry. It would have provided adequate protections to ensure that financial services would best service the consumer while not jeopardizing insured deposits. This comprehensive structure was thrown out a back window.

Finally, I will say this again: Unless we strike this provision and make other improvements this week, I think someday this bill will be recognized for what it truly is: A colossal policy failure and another indication that this Congress cannot understand markets and make them work for consumers and taxpayers alike. It will be another indication that congressional action erodes our national competitiveness in a world that rewards only efficiency and innovation. It will be another sign that our national treasure, the earning power of working Americans, is taxed not for investing in jobs, or education, or infrastructure, or reducing the deficit, but rather for filling the black hole of political and economic incompetence.

Mr. GONZALEZ. Mr. Chairman, I yield 30 seconds to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise in strong opposition to the amendment jointly offered by the gentleman from Nebraska and the gentleman from Georgia.

Title IV of H.R. 6 is the product of months of hard work and a spirit of cooperation between the Banking and Energy and Commerce Committees. For the past two decades, bank reform proposals have come through this Congress and died in committee or on the floor. Finally, we have a rational, constructive product which is supported by the chairmen of both the Banking and Energy and Commerce Committees.

The Hoagland-Barnard amendment would destroy this compromise and derail this bill. American depositors and American taxpayers need prudent, reasonable financial reform. Title IV will protect their deposits and prevent another massive taxpayer bailout.

Let's look beyond the rhetoric to the reality of today's banking industry. Regardless of the outcome of this bill, banks are entering the securities business—it is a reality. Maintaining the status quo, and eliminating title IV, means that regulators will continue to chip away at existing law—Glass-Steagall—and we will witness an expansion of bank powers without sufficient oversight.

What is not a reality today is a package of firewalls which:

Will insulate federally insured deposits from traditionally nonbank activities.

Will stand up in the face of economic stress.

Cannot be dismantled by regulators at some future date.

Title IV contains these firewalls:

Federal banking regulators have demonstrated on all too many occasions that they cannot regulate this Nation's banking industry. If they cannot check the Bank of New England, or First Republic how can they possibly monitor even larger banks, with a wide range of financial interests, without strong firewalls? I asked this very question of Secretary Brady, and he could not respond. My colleagues, if the Secretary of the Treasury cannot state unequivocally that Federal regulators can provide effective oversight of much larger banks with expanded powers, then how can this Congress justify the removal of structural safeguards from this bill?

I urge all of my colleagues to oppose this amendment.

Mr. GONZALEZ. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I just would like to give you the perspective of this amendment from an insurance agent's point of view. And there are a lot of them in this country, hundreds of thousands of them.

If we strike, everybody says that the law remains the same, but there was a court decision, a Delaware court decision, which says that a State bank can buy an insurance agency and do business across State lines. Now, that State bank can be purchased by a Federal bank, and if it is purchased by a Federal bank, it, therefore, follows that the Federal bank can do business across State lines in the insurance industry.

What you are going to do is you are going to allow Federal banks to get involved in the insurance industry in business across this country, thus destroying the livelihood of thousands of insurance agents in the long run.

The only alternative, if this is struck, is to pass the recommittal motion with the Hayes amendment in it. So I think everybody ought to be aware of it.

If you are concerned about the insurance industry and the insurance agents in this country, then you should either vote not to strike or to vote for the recommittal motion with Hayes in it.

Mr. WYLIE. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, we are not dealing in this amendment or in this bill with any new bank powers at all. We are not dealing with S&L's. We are not dealing with corruption.

We are dealing with an institution group that needs to be helped, and that is commercial banks, to be more profitable.

What the amendment does is strike out of here the provision that strips out from banking powers their existing powers in the insurance area. No new powers are being stripped out, existing powers are. It creates an unlevel playing field, and we should not be creating that. We should be supporting the gentleman from Georgia [Mr. BARNARD] in not allowing that to happen.

Currently, nonbank-bank holders, companies that own those banks, can do things that banks will not be allowed to do if this provision passes. One thing, for example, banks are primary distributors of major Government securities in this country to the buyers. They do it via telephones in this country, and securities companies would be allowed to continue to sell their securities by telephone and distribute them, but banks would not be.

This is a terrible provision that the Committee on Energy and Commerce has sent over in title IV. If we had the Committee on Banking, Finance and Urban Affairs' version of it, I would be supporting it.

We ought to keep the present playing field. Vote for the Barnard amendment. Strip out this bad bill.

Mr. BARNARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and Members of the Committee, let me say that the chairman of our Committee on Banking, Finance and Urban Affairs has received tremendous kudos for the product of the House committee bill which was

passed, even in the New York Times. It talks about the House Banking Committee headed by HENRY GONZALEZ, "made a good plan better by adding decisive safeguards."

Yes, the Committee on Banking, Finance and Urban Affairs brought a good fine product to this House, but it is gone. It is gone just by the agreement of three or four chairmen, powerful chairmen, but that is neither here nor there.

What is the substance of where we are right now? No. 1 is, we are not revisiting Garn-St Germain. We are not giving the banks one additional new power.

They talk about special interests, the banks are special interests, that they have sought this bill because of special interests. Do you know why we are here today with this compromise? It is because of special interests.

You pass the Gonzalez-Dingell bill, you are going to be fortifying the interests of this country. They have got all of the good investment powers today, and they want it all, but they will tell you that it is because of the fact that banks are not capable, that they do not want them to have it.

Second, the other special interest is the insurance industry. My friends, will you tell me what risk there is in selling insurance? The States have legislated all over this country for banks to sell insurance. No bank has ever gone under because of insurance. That is the other special interest that is being addressed in this Gonzalez-Dingell bill.

My friends, this compromise is a full step backward. It is a punitive step. It is trying to penalize the banking industry, not trying to make it more profitable.

The bailout is to be paid by whom? Not in this bill is it supposed to be paid for by taxpayers. It is supposed to be paid for by the increased premiums of banks.

Will you tell me that if you make banks less profitable they will be in a better position to pay these premiums?

Banks are in the forecast of paying as much as 40 cents per hundred. It used to be 8 cents per hundred. Now it is 23 cents per hundred. They have taken the cap off of 30 cents a hundred, and the GAO says that we need 40 cents a hundred.

My friends, if we expect banks to pay this bailout, give them the additional opportunities to make more money. Also, give them the additional opportunities to increase their capital base.

We are doing nothing in this bill to enhance the bank holding companies to attract money and increase their capital. Now, my ambition is that we would wean ourselves away from deposit insurance.

Let us let the banks, like other financial entities, depend upon their capital for their risk.

□ 1630

But we are not doing that. We are saying that banks are incapable of doing it, so therefore let us penalize them more. If we do not let banks be profitable, they cannot pay for this and the taxpayers will eventually pay for it. We will return if this amendment is defeated.

Mr. GONZALEZ. Mr. Chairman, I yield the balance of my time to the distinguished gentleman from Michigan [Mr. DINGELL], our comrade in arms and the chairman of the Energy and Commerce Committee, to close debate.

Mr. DINGELL. Mr. Chairman, I want to commend my good friend and colleague, the gentleman from Texas [Mr. GONZALEZ] for a superb piece of work in handling the legislation before us.

I want my colleagues to know that this is basically a sound bill and I urge them, with title IV, to support it.

I will tell my colleagues that title IV preserves and reinstalls good and intelligent and strong regulation to prevent possible wrongdoing.

If you do not like the current situation, then you should vote against the amendment offered by the gentleman from Georgia [Mr. BARNARD].

If you liked Garn-St Germain, then by all means you should vote for the Barnard motion to strike, because you are going to see all the consequences which occurred from the adoption of Garn-St Germain transpire with regard to the banks now instead of the savings and loans.

The same people downtown who supported Garn-St Germain and the same people in industry who supported it are actively supporting this motion to strike. Title IV does away with the possibility of substantial evils in the industry. It does not move discount brokerage, mutual funds, government securities, or private placements out of the banks.

The compromise offered by my good friend, the gentleman from Texas and I, is a procommunity banker, prodepositor, proinvestor, and protaxpayer amendment. I would urge my colleagues to support it for that reason.

Title IV has the support of the AFL-CIO, the Consumer Federation of America, and believe it or not, Ralph Nader. I do not want my colleagues to vote against it because of the last supporter.

I will tell you it permits the banks to compete. It permits them to do so with a safety net. The safety net would help the banks. It would also assure that the taxpayers and the investors are protected.

It continues the prohibition against industrial and other commercial firms acquiring banks.

It links the repeal of the Glass-Steagall law separating banking and securities activities to the establishment of strong firewalls and it would assure the integrity not only of banking, but of the securities industry.

It requires tough, functional regulation of new securities powers by giving the securities regulators control over the securities activities of banks, and it preserves to the Federal Reserve Board its current role of an umbrella regulator of the holding company.

I believe that it is important to reject the amendment offered by the gentleman from Georgia because the legislation that we have here before us, title IV, allows regulators to require the divestiture of banks or securities affiliates who repeatedly violate firewall provisions.

Title IV requires regulators to provide annual reports on the adequacy of enforcement and regulatory resources. It also requires auditors to do something that they were never required to do under Garn-St Germain and under current law. It requires auditors to detect and report fraud which they find in the conduct of their activities.

Mr. Chairman, I urge my colleagues to protect this country against another irresponsible bailout. I tell you that title IV is desperately needed to assure that the Government safety net is protected, that taxpayers are protected, and that the corpus of the bank insurance fund is protected. To do otherwise, to vote for the Barnard amendment, is to turn the whole business over to the banks, and, if you want to help the big fat cat banks that brought themselves to this low state, vote for Barnard.

Mr. ROTH. Mr. Chairman, I rise to support this amendment.

The bill we have before us has a life-threatening illness, and removing title IV is the surgery needed to save this bill. We need reform, but title IV is a big step backward.

Our committee worked for months to: Strengthen the deposit insurance system; improve financial services for American businesses and families; inject more competition into our financial markets; and ensure that the United States remains master of its own economic future.

Our original bill made sure we don't simply pour more funds into the deposit insurance fund, without fixing the underlying weakness in our banking system. But what is in the bill now leaves all our work in ashes, and is a prescription for more taxpayer bailouts.

At the final hour, when the House should be voting on our committee's reform bill, we find in our bill a substitute which cuts the heart out of our effort to strengthen our banking system. Title IV meets none of the goals which we have worked for.

I must ask my colleagues: What has become of the integrity of the House, when a year's work by our committee can be thrown out the window by two people meeting in a closed room? The American people know that a vibrant, competitive financial services industry is crucial to the future growth of our economy and the creation of new jobs.

But title IV only creates the illusion of progress, while in reality binding our financial institutions with restrictions, exclusions, and prohibitions which will stifle competition. Title

IV keeps our financial services sector in the age of the horse-and-buggy, while other nations get ready to move into the 21st century.

With the outmoded laws we have today, it is no wonder that none of the world's top banks are American, and that 10 percent of American banking is now foreign controlled.

Title IV also strikes a blow against progressive banking laws such as Wisconsin's, by preventing our State banks from offering services that have been their right for nearly 50 years. My State has shown how progressive banking laws, combined with effective supervision and conservative, sound bank management results in the best-capitalized banks in the Nation.

Wisconsin should be the model we follow, but title IV runs counter to everything that we have accomplished in our State. That is why I support this amendment. We must take this bad compromise out of the bill and move on to enact a true reform measure.

Mr. MCMILLEN of Maryland. Mr. Chairman, I urge rejection of this amendment.

Mr. Chairman, I rise in opposition to this amendment. If you strike title IV, you are eliminating one of the major consumer safeguards in the bill—the prohibition against the sale of bank securities in the lobby of such banks. Specifically, I am making reference to section 15D(d) of the committee print.

These provisions are based in large part on legislation which I introduced with Representative SCHUMER earlier this year, H.R. 1023, the Depositor Protection and Fraud Act of 1991.

The origins of the legislation go back to a House Banking Committee hearing held 2 years ago, when I served on that committee. The hearing focussed on the sale of lobby debt, and how many investors purchased high yield bonds under the false assumption that they were federally insured. The example was, of course, Lincoln Savings & Loan.

This was how Charlie Keating ripped of his customers: Selling them worthless securities under the assumption that the securities were federally insured.

The provisions we are enacting today will prevent a repetition of this tragedy by prohibiting the sale in a retail branch of a federally insured bank or S&L of certain specified types of debt or stock of the bank or any affiliate of the bank. This restriction does not apply to shares of certain mutual funds.

I would commend the chairmen of the subcommittee and the full committee for their actions in this area.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia [Mr. BARNARD].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BARNARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 216, answered "present" 2, not voting 15, as follows:

[Roll No. 362]

AYES—200

Allard
Anderson
Andrews (NJ)
Archer
Armey
Aspin
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Bereuter
Bliley
Boehlert
Boehner
Broomfield
Byron
Callahan
Camp
Cardin
Carper
Chandler
Clement
Clinger
Coble
Coleman (MO)
Condit
Coughlin
Cox (CA)
Cox (IL)
Crane
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLay
Dickinson
Dooley
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Engel
English
Erdreich
Ewing
Fawell
Fazio
Fields
Flake
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gekas
Geren
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (OH)
Hamilton
Hansen
Hastert
Hefley
Hefner
Henry
Hoagland
Hobson
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Kasich
Kolbe
Kopetski
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Martin
Matsui
Mavroules
McCandless
McCollum
McDade
McEwen
McHugh
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Moorhead
Morella
Morrison
Myers
Natcher
Neal (NC)
Nichols
Nowak
Nussle
Olin
Orton
Oxley
Packard
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Price
Pursell
Ravenel
Ray
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (IA)
Smith (OR)
Smith (TX)
Snowe
Spence
Spratt
Staggers
Stallings
Stump
Swett
Tallon
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—216

Abercrombie
Ackerman
Alexander
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Atkins
Barton
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Bruce
Bryant
Burton
Bustamante
Campbell (CO)
Carr
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Costello
Coyne
Cramer
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Espy
Evans
Fascell
Feighan
Fish
Foglietta
Ford (MI)
Gaydos
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Glickman
Gonzalez
Gordon
Guarini
Hall (TX)
Hammerschmidt
Hancock
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Herger
Hertel
Hochbrueckner
Holloway
Horn
Inhofe
Jacobs
James
Jefferson
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Mrazek
Murphy
Murtha
Nagle
Neal (MA)
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Poshard
Quillen
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Slattery
Smith (FL)
Smith (NJ)
Solarz
Solomon
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swift
Synar
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

ANSWERED "PRESENT"—2

Cooper
McGrath

NOT VOTING—15

Bilirakis
Boxer
Brown
Bunning
Campbell (CA)
Dannemeyer
Dymally
Hopkins
Lloyd
Marlenee
Rowland
Savage
Slaughter (VA)
Tanner
Whitten

□ 1654

The Clerk announced the following pair:

On this vote:

Mr. Marlenee for, with Mrs. Lloyd against.

Mr. DICKS changed his vote from "aye" to "no."

Messrs. GEKAS, MCHUGH and HALL of Ohio changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 102–281.

AMENDMENT OFFERED MY MR. RINALDO

Mr. RINALDO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RINALDO: Page 330, after line 5, insert the following new section (and redesignate the succeeding section and conform the table of contents accordingly);

SEC. 411. EMERGENCY ACQUISITIONS OF FAILING BANKS BY ANY COMPANY.

(a) FAILED BANK ACQUISITIONS.—Section 13 of the Federal Deposit Insurance Act is amended by adding the following new subsection:

"(1) EMERGENCY ACQUISITIONS OF FAILING INSURED BANKS BY ANY COMPANY.—

"(1) IN GENERAL.—Notwithstanding any provision of law, any company which is engaged in activities, or controls any company engaged in activities, that are not permissible for a financial services holding company pursuant to the Financial Services Holding Company Act may, with the prior approval of the Federal Reserve Board and subject to a determination by the FDIC pursuant to paragraph (5) of this subsection, acquire direct or indirect ownership or control of all of the assets of any insured bank if—

"(A)(i) at the time of the acquisition of control of such bank a receiver or conservator had been appointed;

"(i) such bank is an insured bank that the appropriate Federal banking agency has determined is in default or in danger of default as those terms are described in section 3(x); or

"(iii) such bank is a level 5 depository institution as that term is described in section 38 of the Federal Deposit Insurance Act; and

"(B) such acquisition is effectuated without financial assistance from the Federal Deposit Insurance Corporation under section 13(c) of the Federal Deposit Insurance Act.

"(2) CAPITAL REQUIREMENTS.—

"(A) IN GENERAL.—The Federal Reserve Board shall not approve any acquisition, merger, or consolidation under this subsection unless the insured bank or banks to be acquired will be level 1 depository institutions, as that term is defined in section 38 of the Federal Deposit Insurance Act, immediately after the acquisition.

"(B) MAINTENANCE OF HIGH CAPITAL/CAPITAL MUST BE PROMPTLY RESTORED.—Any insured bank which is acquired by a company pursuant to paragraph (1) that ceases to qualify as a level 1 depository institution shall before the end of the 60-day period beginning on the date such bank ceases to qualify as a level 1 depository institution—

"(i) restore its capital in an amount sufficient for such bank to requalify as a level 1 depository institution; or

"(ii) submit a capital plan to the Federal Reserve Board will restore the relevant capital measures to the level necessary to requalify as a level 1 depository institution.

"(C) FAILURE TO RESTORE CAPITAL OR IMPLEMENT A CAPITAL PLAN.—If an insured bank described in subparagraph (B) fails to take the actions described in clause (i) or (ii) of subparagraph (B) or if the capital plan submitted under subparagraph (B) is not approved by the Federal Reserve Board or if the insured bank fails to implement the capital plan, the company that acquired the insured bank under paragraph (1) shall divest any interest in all insured depository institution subsidiaries that do not meet all currently applicable capital standards.

"(D) APPLICABILITY TO COMPANIES UNDER PARAGRAPH (1).—If an insured bank to which this section applies fails to fully comply with the requirements of this paragraph, the acquiring company under paragraph (1) shall divest any interest in the insured bank or terminate all activities engaged in which are not permitted for a financial services holding company.

"(E) ESTABLISHMENT AND IMPLEMENTATION REQUIRED.—

"(i) IN GENERAL.—The Federal Reserve Board shall prescribe regulations to carry out the requirements of this section.

"(ii) DEADLINE FOR REGULATIONS.—The Federal Reserve Board shall, after notice and opportunity for comment, prescribe final regulations under clause (i) which regulations shall be final not later than January 1, 1993.

"(iii) COORDINATION WITH AGENCIES.—The Board and the appropriate Federal banking agencies shall coordinate the application of this subsection with the provisions of sections 5(e) and 38 of the Federal Deposit Insurance Act.

"(3) SAFEGUARDS RELATING TO THE INSURED BANK.—

"(A) No insured bank acquired under paragraph (1) shall—

"(i) extend credit in any manner to any affiliate;

"(ii) purchase for its own account financial assets or any securities of any affiliate;

"(iii) issue a guarantee, acceptance, or letter or credit, including an endorsement or standby letter of credit, to any affiliate; or

"(iv) extend credit to any customer of any affiliate except on an arms-length basis in compliance with section 23B of the Federal Reserve Act (12 U.S.C. 371–c–1).

"(B) In addition, the restrictions and limitations in section 4(n) of the Financial Services Holding Company Act shall apply to companies that acquire insured banks under this subsection as if those companies were financial services holding companies.

"(4) REGULATION.—

"(A) STATUS AS A FINANCIAL SERVICES HOLDING COMPANY.—Notwithstanding any other provision of law, a company described in paragraph (1) shall not be treated as a financial services holding company solely by virtue of such company's control of an insured bank as described in paragraph (1), except—

"(i) for purposes of section 3 of the Financial Services Holding Company Act, specifically including, but not limited to, the antitrust requirements under subsection (c)(1) and (2), as well as the further requirement under subsection (c) that the Federal Reserve Board take into consideration the financial and managerial resources and future prospects of the company described in paragraph (1) and the failed or failing bank before approving the acquisition;

"(ii) for purposes of sections 5 and 7 of the Financial Services Holding Company Act; and

"(iii) for purposes of sections 8 and 38 of the Federal Deposit Insurance Act, section 106 of the Bank Holding Company Act Amendments of 1970, and section 22(h) of the Federal Reserve Act.

"(B) NOTICE TO ENGAGE IN PERMISSIBLE NONBANKING ACTIVITIES.—Any company described in paragraph (1) may continue to engage directly or indirectly in nonbanking activities after such acquisition. Such company shall file notice with the Board 30 days after commencement of any new nonbanking activities.

"(5) LEAST COST RESOLUTION DETERMINATION BY THE FDIC.—No company may acquire direct or indirect ownership or control of all of the assets of any insured bank pursuant to paragraph (1), unless the FDIC determines, in its sole discretion, that such acquisition of ownership or control satisfies the FDIC's obligations to an institution's insured depositors at the least possible cost to the deposit insurance fund.".

(b) TECHNICAL AMENDMENT.—Section 4(f)(2)(A)(i) of the Financial Services Holding Company Act, as amended (12 U.S.C. 1843(f)(2)(A)(i)) is amended to read as follows:

"(i) acquired control of an additional bank or an insured institution (other than an insured institution described in paragraph (10) or (12) of this subsection, or a bank pursuant to section 13(1) of the Federal Deposit Insurance Act) after March 5, 1987; or".

The CHAIRMAN. Under the rule, the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes, and a Member opposed will be recognized for 20 minutes.

Mr. RINALDO. Mr. Chairman, I yield 7 minutes to the gentleman from Massachusetts [Mr. FRANK], and I ask unanimous consent that he be permitted to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. RINALDO. Mr. Chairman, one of the critical issues that must be resolved in this debate is who will pay for failed banks.

Will it be our constituents, the taxpayers, or will Congress allow private corporations to pick up part of the cost?

In an era of budget restrictions, it would be irresponsible for this House not to utilize every possible alternative to save our constituents' tax dollars.

It no longer makes any sense to separate banking and commerce. As a matter of fact, banking and commerce are not separate.

As a result of the nonbank bank loophole, corporations like Archer-Daniels-Midland, Sears, Chrysler, General Electric, J.C. Penney, and others already own banks.

Furthermore, over the last few years, over 90 failed savings and loans have been sold to commercial corporations. The buyers include such names as Dana Corp. Weyerhaeuser, and Ford.

This is not theory. This is the reality of today's financial system.

There will be no sweetheart loans under my amendment. It totally prohibits a purchased bank from lending to its corporate parent or the parent's other affiliates. This would include issuing or endorsing a guarantee, acceptance, or letter of credit, or purchasing any securities or other financial assets of the parent or its subsidiaries.

The bank would also be forbidden to tie an extension of credit to the purchase of a product or service from the parent.

The law will prohibit conflicts of interest, concentrations of economic power, or other types of self-dealing.

Our financial services industry is in desperate need of capital, management expertise and imagination. Merging two brain-dead banks at the taxpayers' expense merely buys time.

Commercial corporations can supply the new ideas and better management that banks need. Even more important, they can supply capital.

Banks will need literally tens of billions of dollars before this crisis is over. I do not want to sit here next year and create another RTC because

we closed off our best source of new capital.

Chairman Richard Breeden of the Securities and Exchange Commission, in a letter dated September 25, states that: "The benefits of permitting commercial firms to invest in banks outweigh any potential disadvantages."

He goes on to say that: "* * * banks would have access to * * * U.S. corporate capital and * * * U.S. corporations would be afforded the same opportunities to invest in banks already afforded to many foreign organizations."

In addition, former FDIC Chairman L. William Seidman endorses this idea. In a letter dated September 24, Chairman Seidman said that:

The Federal Deposit Insurance Corporation strongly supports provisions to permit commercial firms to acquire failing or failed financial institutions.

* * * new sources of capital will reduce the cost to the Bank Insurance Fund * * * Without this expansion of authority, the FDIC may ultimately find itself with a decreasing number of acquirers willing and able to purchase failed institutions. * * *

My amendment would require the buyer to raise the bank's capital to the highest classification at the time of purchase. The purchaser will not be offered any direct assistance from the FDIC. It also cannot cherry pick the assets. In other words, the purchaser must take the entire bank and its loan portfolio, good loans and bad loans.

The alternative to this amendment is to use tax dollars to close banks that could have been sold to commercial corporations. The FDIC expects several hundred bank failures over the next few years.

If the 96 savings and loans that were sold to commercial corporations had been closed instead, it would have cost the taxpayers over $16 billion.

Of course, capital could come from foreign investors. As of 1990, foreign-owned banks controlled almost 23 percent of our banking market.

Foreign investors have had a field day buying up American banks, while an obsolete law made American corporations sit on the sidelines.

Are we ready to allow foreign interests to increase their influence over the availability of credit to American consumers and businesses?

The question that we must face in this debate is who pays for bank failures. Is it going to be your constituents and neighbors? Or are we going to let corporations buy some of these banks.

Is this House ready to tell the taxpayers, our constituents, that their taxes must go up because we won't let Turner Broadcasting, for example, invest some of its profits in a bank?

Are you ready to tell parents that the money they wanted to use for education is going to the FDIC instead?

Are you ready to cut Social Security COLA's to bail out a bank that Sears would have bought?

The responsible answer is "no." The responsible answer is to amend this bill to allow dead and dying banks to be sold to commercial firms.

The responsible answer is to do everything possible to prevent this entire burden from ending up on the backs of the taxpayers of this country.

And remember, your constituents—the taxpayers—will know how you voted on this one.

□ 1700

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

The CHAIRMAN. Is the gentleman from Massachusetts [Mr. MARKEY] opposed to the amendment?

Mr. MARKEY. I am opposed to the amendment, Mr. Chairman.

The CHAIRMAN. The gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes.

Mr. MARKEY. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, let me begin by saying to my good friend, the gentleman from New Jersey [Mr. RINALDO], that for 5 years he and I have worked side by side in the Subcommittee on Telecommunications and Finance, and we have up to now been able to work out every issue that we have brought out here to the floor. We have worked together, trying to find a middle ground on every issue so that we can present in this changing global telecommunications and finance marketplace a common American perspective as to how we should deal with that whole range of issues.

On this day the Members have been presented with the first set of differences which we have not been able to reconcile, and it is because there are in fact two distinctly and unfortunately irreconcilable ways of looking at these issues.

This amendment offered by my friend, the gentleman from New Jersey [Mr. RINALDO] is not about saving taxpayers' dollars. In fact, it is nothing more than a backdoor attempt by the administration to allow commercial companies to buy banks. Paul Volcker, Henry Kaufman, and a slue of other experts testified to us that few commercial companies would have any interest in buying failed or fatally ill banks without a substantial dose of Federal assistance.

□ 1710

But assuming commercial companies would be interested, the GAO has warned us that commercial firms would probably be interested for the wrong reasons. Because, "They have an inadequate understanding of the risks involved," a condition which the GAO warns could lead to even greater bailout problems in the future.

The amendment would open the floodgates to commerce entering into banking. More than 1,000 banks with assets of $414 billion are currently on the FDIC problem list. Under this amendment, every one of those banks could be judged by regulators as being in some danger of eventual default, and thus sold to commercial companies. Chrysler, Exxon, you name it, that would be the new banking industry in our country.

Some have argued that because of decisions made previously by regulators, and in some cases Congress, the camel's nose is already under the tent. Already we have commercial companies that are engaging in some form of banking.

Well, let me say to Members if this amendment passes, more than just the camel's nose will be present in the tent. This amendment invites the camel to come in and to make himself at home. We will have a full-blown mixture of commerce and banking before the next 5 years is done.

Mr. Chairman, I reiterate that this is not about saving taxpayers money. This amendment is about getting commerce into banking. It is the foot in the door that will eventually, inevitably, result in a full mixture of these two parts, these two distinct parts of our American economy.

Mr. Chairman, I say to Members that this amendment must be rejected if we are to be consistent with the vote cast within the last half hour, because otherwise there will be no safeguards.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

The Chairman, Oliver Wendell Holmes said the life of the law has not been logic, it has been experience. I now know what law he has been talking about—this one. I think we are in a somewhat inconsistent pattern here, and the opposition of some of my friends to this amendment seems to me to carry it out.

No, I do not think it is inconsistent with support for the last amendment. In fact, as I understand the last provision, the defeat of the amendment of the gentleman from Georgia [Mr. BARNARD], it left intact a set of very strict rules and regulations.

Understand that anybody who buys a bank under this or any other amendment in this bill takes that bank subject to all the rules, regulations, and restrictions that are in the bill. The fact that a particular corporation would buy in a failed bank does not exempt them from all these rules and regulations.

Now, I thought they kind of overregulated a little bit in this last one. But if you think that was efficacious, where is the fear?

People say well, this will be an entering wedge, a camel's nose, all those wonderful anatomical metaphors that come forward. But I had thought that the provisions worked out by the two chairmen were seen as protecting us.

Understand, if you buy a failed bank under this amendment, you are not ex-

empt from anything except the fact that you can buy a bank, having been a commercial corporation, but you are covered by all these rules and regulations. So if Members think these rules and regulations are going to work, I do not understand why they are concerned.

The question is, Why do we want to let the failed banks be sold to these people? The main reason, as far as I am concerned, is we own them, we are stuck with them, and we have to sell them. I would rather sell them to a wide range of bidders, understanding that the bidders are subject to all of the rules and restrictions that everyone else is.

Then some people say no, that would be a mistake because you should not let these people into banking. In other words, the bankers are so smart and have done such a good job and so understand the risks, that we should not let anybody into their turf.

It seems to me some of my friends have the view that the bankers have been unwise, have made risky decisions, and need to be further regulated, and also need to be protected from letting anybody else into their business.

Mr. Chairman, none of my best friends are bankers, but I have a couple of good friends who have been in the business, and it does not seem to me that the bankers are so infallible and so perfect in their approach that no one ought to be allowed to encroach on their turf.

Mr. Chairman, I guess I was absent the day it became the liberal position to protect one group of businesspeople against another group of businesspeople, that the way to protect the consumer was to make sure nobody interfered with Salomon Brothers' monopoly in this area. And now no one could come out and bid on a bank. So when the Bank of New England failed, we should only have bankers bidding on the place, which means a lower price.

It also means under the terms we have the bank comes in and says, "We will do you a favor. We will take this bank off your hands, but we will not lend anybody any money."

They set up some organization in New England called the Recoll Corp. It is death row for borrowers. You put money in it, and it will not come out.

My friend from Massachusetts said people will not want to buy these. That is probably the case. I do not know why anybody is going to be rushing to buy a failed bank. But if there are people, and this is all we are saying, I will not want to make a prediction we are going to have a large number coming in, but if there are corporations that are prepared to bid higher than anybody else for a bank, take all of the assets and all of the liabilities, and pay us more than anybody else, are we, the United States of America, in such great financial shape that we can say no to them? Take your money elsewhere?

Again, this is not a proposal to loosen by any means the terms under which banking is carried out. I was one of the ones who thought this ought to come at this point in the bill after the motion to strike, because it is now clear that anybody who buys a bank under this amendment takes it subject to all of the rules and regulations that have been put in here.

Given that, and given the desirability of minimizing the hit to the Federal Treasury that comes in here, I hope the amendment is adopted.

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

Mr. MARKEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Chairman, I would like to speak in opposition to the amendment. First let me say that no Member of this body is more decent and fair than the gentleman from New Jersey [Mr. RINALDO]. It is one of the reasons it troubles a lot of Members to oppose the gentleman's amendment. But I just have to tell Members that this amendment that we are voting on is not law in virtually any other country in the world.

Mr. Chairman, we live in global financial markets. There are virtually no other countries where this is law. The reason that that is the case is that this amendment is an invitation to self-dealing, conflicts of interest, and anticompetitive tie-ins.

I would like to give Members just one example, because obviously these are complicated issues. Say you had the biggest company in town taking over a failed bank, the principal lender in the town. The company that took it over, in our example, gets into financial trouble. It could not get credit on the merits. But suddenly they get into a situation where they can get help from their own piggybank when they need a favor.

The Rinaldo amendment, to its credit, does try to establish some checks and safeguards. But let me wrap up by saying that Paul Volcker made it very clear that firewalls cannot provide protection in these kinds of situations. Paul Volcker went on to add that this amendment would create regulatory nightmares.

Mr. Chairman, I urge Members to turn down this amendment, an amendment that, insofar as I can tell, would create a situation virtually unprecedented in the Western industrialized world.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. LENT], the ranking minority member of the full Committee on Energy and Commerce.

Mr. LENT. Mr. Chairman, the gentleman from Massachusetts [Mr. MARKEY], whom I tried to get the attention of a little while ago, complains that this amendment would open the floodgates to corporations taking over some of our failed or failing banks.

□ 1720

He is worried about America's well-capitalized banks taking over these ailing banks. He is worried about the camel's nose getting even bigger. Those of us who are sponsoring this amendment hope this happens. I frankly am shocked that the gentleman from Massachusetts, being a man of the people, would oppose this amendment. This amendment merely decides the question of who pays the bill for these failing banks. Should banks that have failed or are about to fail be bailed out by these American business people, corporations? Or should they be bailed out by the American taxpayer? That is the question. That is the only question that must be decided on this amendment.

I am proud to sponsor this bipartisan amendment along with my colleagues, Congressmen RINALDO, FRANK, WYLIE, and BARNARD.

To me, the answer to that question is simple. We should never ask the American taxpayer, who is already struggling just to make ends meet, to bear any unnecessary burden, especially one of this magnitude.

All too often, Congress fails to allow markets to solve the problems facing our Nation's economy, substituting in its place expensive Government handouts and bailouts.

This is done in the name of consumer protection. But are we really protecting consumers when we require them to bail out a bank with their tax dollars when a commercial company stands ready to do so without Federal assistance?

Mr. Chairman, this institution has come under great criticism of late, and our constituents are wondering if we are truly protecting their interests. This amendment will prove just were we stand. A vote for the amendment is a vote for the American taxpayer. A vote against the amendment means we're just doing business as usual.

I urge my colleagues to listen to your constituents. Listen to your common sense. Support this amendment and give the American taxpayer a much-needed break.

Mr. WYDEN. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. SLATTERY] to speak in opposition.

Mr. SLATTERY. Mr. Chairman, this amendment is clearly a Trojan horse for commercial ownership of banks. I think we are kidding ourselves if we view it in any other way. So for those Members that want commercial ownership of banks, vote for this amendment. For those that have opposed that concept, I urge in the strongest possible terms a vote against this amendment.

Let me share with my colleagues some comments that have been made by some very knowledgeable people about this whole issue of commerce owning banks. Let me share some of their ideas.

Comptroller General Bowsher: "I think you're setting yourself up for mega-bailouts down the road." That is the Comptroller General.

"The potential benefits strike me as remote at best and illusory at worst." That is Gerald Corrigan, President of the Federal Reserve Bank of New York.

Former chairman of the Fed, Paul Volcker: "Where the line should continue to be drawn is between banking and commerce. Fuzzy as that distinction may be at the margin, the overriding public policy interest remains strong."

"Merging banking and commerce ultimately puts in jeopardy the fundamental economic democracy of this country and undermines the crucial need for independent deposit institutions exercising objective credit judgments." Economist Henry Kaufman.

Former CEA head Herbert Stein said, "There is little reason to think that nonfinancial businesses will be more willing to put capital in banks than the ordinary investor would, unless the nonfinancial business sees an opportunity to gain from the connection something other than the return on equity. This opportunity is likely to mean some form of self-dealing that is illegitimate."

Now let us look at what Ralph Nader says, for those that might be influenced by his view. I quote, "Letting commercial firms buy banks creates an irresistible temptation for conflicts of interest and self-dealing."

Mr. Chairman, I think this is a very clear issue. Again, if we want commercial ownership of banks, vote for it. If we are opposed to that, then we should vote against this amendment. I do not think there is any question that if we allow commercial entities to acquire banks, we are going to run into some under-the-table type subsidies, just like we did with the savings and loan situation.

Mr. RINALDO. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. WYLIE], the distinguished ranking minority member of the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in strong support of the Rinaldo-Frank amendment.

We have heard a lot about camels and horses. I guess the circus is in town. This is the way I would suggest that the opponents of this amendment are talking. This would permit, to get serious about it for a minute then, this would permit commercial firms to buy failed or failing banks. Importantly, no government assistance could be used in these transactions, and the commercial firms which buy the banks would have to buy the banks, warts and all. They would have to take all of their assets.

Make no mistake, this is a save-the-taxpayers'-money amendment.

Consider these important points to this amendment. It would permit $719 billion in new capital from Fortune 500 companies to be available to shore up failed or failing banks. It would boost opportunities to let American capital be used to rescue failing banks, instead of foreign capital.

I say this because recently Citicorp, the United States' largest bank, had to go overseas to raise capital. They had to turn to a Saudi prince to do it, and he is now the largest shareholder in Citicorp.

It will put the United States on a more even footing in international banking markets. We have been told that no other country in the world allows this. Here is a chart showing all of the countries that allow commercial firms to own some banking interests: Canada, France, Germany, Hong Kong, Italy, Japan, the Netherlands, Switzerland, and the United Kingdom.

We are just getting in step with the rest of the world as far as banking and commerce are concerned.

Finally, it will reduce costs to the taxpayers by expanding the opportunity to buy banks. I might add that we should not fear banking and commerce. In fact, it already exists, although the gentleman from Michigan [Mr. DINGELL] will tell Members that it does not.

I received an interesting piece of mail in the mail today. It is from Ford Motor Co., offering me a home equity loan. Because of technology changes, that kind of thing happens all the time. This has in part led to the erosion of the banking franchise.

Ford Motor Co. made 89 percent of its profits last year from financial services, not from selling cars.

I would strongly urge Members to support this amendment. If they want to save the taxpayers money, vote yes.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I just had ear surgery on Tuesday, so I cannot hear what everybody is saying very well. And it is tough enough to hear what the gentleman from Massachusetts [Mr. FRANK] says anyway with not only having one-half of your hearing.

But quite frankly, what I did hear from him I thought made a lot of sense. Let me tell my colleagues why.

We are talking about failed banks, banks that have gone under, banks that are worthless, banks that the taxpayers are going to pick up billions of dollars of costs for.

What this amendment would say is that the FDIC could sell those failed banks to commercial interests. Now, the FDIC would no doubt probably give preference to banks buying them because the experience factor would give the FDIC that kind of authority. But without this amendment, the taxpayers of this country will risk incurring billions of dollars of additional losses.

What we are adding is a pool of people of Americans, for the most part, who might want to pick up those assets and who might want to operate a bank under the normal banking rules that this country operates under the rules of the Dingell amendment that was previously passed. Why would we want to foreclose that?

By not adopting this Rinaldo amendment what we are saying to our taxpayers is we are going to intentionally cost you billions of dollars more money. It just does not seem to make any sense to me at all.

□ 1730

I guess my point is that this bill provides I believe $30 billion in taxpayer assistance. The bill provides that the FDIC pick up these failed banks and try to sell them under normal bank operating rules. All the Rinaldo amendment says is that a commercial interest, a nonbanking interest, if it bids for those assets at a competitive price, might just get that contract and might just save the taxpayers billions of dollars.

That makes a lot of sense. I will vote for the amendment.

Mr. WYDEN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. MCMILLEN].

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in opposition to the Rinaldo amendment. Why do commercial enterprises want to buy a failed bank when no one else wants to? Because that is where the money is; the taxpayers' money, that is. As long as you do not reform the deposit insurance system to put market discipline in place, then you risk this public subsidy spilling over to commercial parents, and spilling over into securities and insurance affiliates.

If the Members think the S&L bailout was big, try extending the deposit insurance umbrella throughout the whole American economy to anyone who is connected with a bank.

I do feel banks should be allowed to affiliate with other commercial enterprises, but only if they pay the full price for deposit insurance and do not hold the taxpayer hostage. This amendment is a Pandora's box. I urge the rejection of this amendment.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Chairman, as this proposal originally stood, the proposal was to allow commercial entities to buy up institutions in banking, the good, the bad, the ugly. As it now

stands, the proposal is to allow commercial entities to buy only the bad and the ugly. We should ask ourselves, why would a commercial entity want to buy a bad, ugly bank? What is the purpose? What do they want to gain by buying a bad, ugly bank, one that is failing so badly that nobody else in the banking industry wants to pick it up, nobody else wants to invest in it?

The issue is not whether or not we allow someone else to invest in failing institutions. The question is whether or not we allow commercial entities to own those failing institutions. We ought to ask ourselves what would happen if they did. Is there an increased opportunity for, indeed, some "hanky-panky"? I would suggest yes, I would think so.

Is there a possibility, for example, that one commercial entity might buy a bank that holds the paper on its competitors? What do you do then? What happens, for example, if Chrysler should end up buying a big, bad, ugly, failing banking institution which would drag Chrysler down again? Would we have to bail out the bank, Chrysler, and maybe New York at the same time? I mean, where is this taking us?

The problems this amendment poses for us are beyond our vision, away on the horizon, but you can smell something wrong when you just consider that commercial entities under this amendment would only be buying the bad, the ugly banks that nobody else wants and nobody else wants to invest in. You ought to ask yourselves why would that happen. If you cannot answer it without wondering, if you cannot answer it without really considering that something bad is going to happen, you ought to ask yourself why should we allow it to happen.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, when I was very young, which may or may not have been a long time ago, my parents once said to me, neither borrower nor lender be. Under the Rinaldo amendment we would be letting financial services holding companies be both borrower and lender, and think of the wonderful opportunity that would be. They talk about this amendment as creating synergies. What a wonderful synergy to have the same board of directors figuring out how much money they need to borrow and having their own private pot to go put their hand in and take it. That is what this amendment is all about. What we will have is a unique opportunity for those who bring money in and put money out, but it is the same person that makes that decision. And when Members try to answer the question that my colleague from Louisiana suggested, "Why should this happen," it is so clearly evident to those of us who follow this issue that they simply want the power to bring in funds and to self-deal with those funds in their own economic interest.

How will the companies that own banks value their assets? To suit their bottom line, not necessarily their investors'. Why will they create lines of credit? For their parent companies or the powerful boards of directors that control them. What will they do with loan applications from competing firms or individuals not so lucky to sit on their boards? It doesn't take a genius to figure it out. It may be good business to own a bank, but it is bad business for a commercial enterprise to own its own captive bank. The potential for conflicts of interest and self-dealing here is astounding and flies in the face of all we know about free markets and true competition. This amendment is irresponsible and dangerous and I urge you to oppose the amendment.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. GONZALEZ. Mr. Chairman, I rise in very strong opposition to this amendment, not only because in principle it is wrong, but it has been so cannily crafted. This must have been written by some lawyer over there from American Express or from one of those nonbank banking entities, because at the end of the amendment, if the gentlemen have a copy of it, and I do not believe many of them do, it says:

(b) TECHNICAL AMENDMENT.—Section 4(f)(2)(A)(i) of the Financial Services Holding Company Act, as amended (12 U.S.C. 1843(f)(2)(A)(i)) is amended to read as follows:

"(i) acquires control of an additional bank or an insured institution (other than an insured institution described in paragraph (10) or (12) of this subsection,".

Members know what that means. It means that these so-called commercial ventures that these gentlemen want to bring in to acquire banks will be exempted from all the regulatory controls of the Bank Holding Act of 1956, and will continue the exemption that such entities as American Express have had.

Mr. RINALDO. Mr. Chairman, will the gentleman yield? Does he want me to answer the question?

Mr. GONZALEZ. I do not have the time. I wish I did.

Mr. RINALDO. I thought the gentleman wanted me to answer the question, and I wanted to be accommodating.

Mr. GONZALEZ. No, I do not have a question. I have analyzed this amendment. I am telling the gentleman that this is a very mischievous amendment, that any Member who votes for it, sight unseen, is going to be making a serious mistake.

Now let me just read from the Bank Holding Co. Act of 1956.

Whenever a holding company controls both banks and nonbanking businesses, it is apparent that the holding company's nonbanking businesses may thereby occupy a preferred position over that of their competitors in obtaining bank credit. It is also apparent that in critical times the holding company which operates nonbanking businesses may be subject to strong temptation to cause the banks which it controls to make loans to its nonbanking affiliates even though such loans may not at that time be entirely justified in the light of current banking standards.

□1740

Mr. WYDEN. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LEACH].

Mr. LEACH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this is a profound amendment.

What is at stake in the internal combusting of commerce and banking is economic democracy, the question of whether the voice of small businesses and ordinary citizens will be heard in a world of financial conglomeration.

There is simply no issue which jeopardizes the principles of Jeffersonian and Jacksonian democracy more than allowing mammoth commercial enterprises to control banks. Such a conglomeration of economic power would have the effect of concentrating monetary and credit allocation decisions in the very largest multinational corporations, including those headquartered in Tokyo and Frankfurt.

If this radical departure from law and custom is adopted, the Federal safety net will be extended beyond the banking system, with deposit insurance potentially applied to broader reaches of the economy. The market economy will be even more contaminated with taxpayer guarantees. After the S&L debacle it would seem that a prudential Congress would want to limit and isolate the role of such guarantees, not exponentially expand them.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania [Mr. RITTER], a member of the committee.

Mr. RITTER. Mr. Chairman, my colleagues, the gentleman from Ohio [Mr. ECKART] and the chairman of the committee, the gentleman from Texas [Mr. GONZALEZ], have both come into this well and talked about the abusive potential for lending to affiliates.

Well, it says right here in the Rinaldo amendment under the category "Safeguards" that this cannot happen.

All right, this would be illegal, an illegal event under the Rinaldo amendment.

So, please, discount what the gentleman from Ohio and the chairman have just said. The fundamental question remains: Who pays? Who pays? Does the taxpayer pay in the FDIC bailout, or does the private sector pay with some commerce and banking for

failed and failing banks? That is the fundamental question.

If my colleagues think that Americans are undertaxed and they want more taxpayer responsibility for bank bailouts, then vote against Rinaldo.

Mr. RINALDO. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, who is the foremost expert in our country on failed banks? Bill Seidman.

Let us see what Bill Seidman has to say in a nutshell. Here is what he had to say about this amendment:

> The Federal Deposit Insurance Corporation strongly supports provisions to permit commercial firms to acquire failing or failed financial institutions. Expanding the range of potential acquirers and introducing new sources of capital will reduce the cost to the Bank Insurance Fund of resolving failed institutions.

That is why I am for this amendment, because I do not believe in taxpayer bailouts. I support the amendment because the failure of the Barnard amendment will see many more bank failures.

The House has turned its back on bank reform, reform that is desperately needed, and this amendment gives us another option instead of the taxpayer bailout.

The bill before us has a life-threatening illness, and removing title IV was the surgery that was needed to save this bill.

PARLIAMENTARY INQUIRY

Mr. WYDEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WYDEN. Mr. Chairman, the Rinaldo amendment was rejected in the Committee on Energy and Commerce. I believe I have the right to close.

The CHAIRMAN. The gentleman is correct.

Mr. RINALDO. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, we have heard a lot of technicalities that are designed to obscure the main point—my amendment will save tax dollars.

The point is that some commercial enterprises may believe that they can run a banking business more successfully than the management that ran the previous company into the ground.

Finally, if my amendment is so strict that no corporations choose to buy a bank, then there is absolutely no reason not to vote for it.

The facts are clear. My amendment will save tax dollars. This is not an ill-considered experiment. Already 96 failed S&L's have been sold to corporations. Not one has failed.

If you vote for my amendment, you are voting for lower deficits. You are voting for more money for this country's disadvantaged. You are voting to save tax dollars. You are voting to save the taxpayers—your constituents—from another bank bailout.

It is as simple as that.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I compliment the gentleman. I think that we should pass this. It is along the line of the two amendments in the past that I have introduced, one of which has saved millions of dollars for taxpayers.

I think it is the right thing to do. We should have done it a long time ago.

Mr. RINALDO. I thank the gentlewoman.

Mr. DINGELL. Mr. Chairman, this is not the first time this amendment has been seen. It was voted down unanimously by the committee, or not unanimously, but overwhelmingly by the Committee on Energy and Commerce.

Let me just advise you that this is an interesting amendment, and my dear friend from New Jersey is a loyal and a decent follower of the administration. Unfortunately, this amendment is not what he has been told, in fact, it is.

In fact, it would permit a large number of banks to be bought, not just banks which are failing, and not just banks which are failed, but banks which are in level 5 and which are in some capital trouble but which are not in danger of failing.

There are some things that ought to be known. First of all, this amendment would set up two categories of banks. The securities law firewalls on which the House just voted very heavily would not apply to these banks or holding companies under the amendment. This amendment would gut the protection which we have just put in place.

Beyond that, it would set up two categories of banks, one which would be free to engage in certain rascality, and one which would not.

I cannot yield to my dear friend in spite of my affection and respect for him.

The amendment would lead us further down the road toward the formation of a small number of power centers dominating the entire American economy. There is no guarantee that the amendment will bring additional capital to banking.

GAO warns that banking-commerce combinations will be a mecca for bailouts. Current finance-commerce combinations are crippling our current commercial and industrial firms.

The Wall Street Journal 2 weeks ago reported huge losses at nonbanks and finance companies that have dragged down otherwise healthy corporations, and their earnings, and their stock prices.

One corporate parent had to eat almost $2 billion in its corporate finance arm due to bad losses at the real estate and savings and loan operation which it ran.

If you do not believe me that this is unwise, listen to Gerald Corrigan, who says, "I remain opposed to the combination of commercial and banking organizations." Listen to Paul Volcker, who says that the trend toward the combining of banking and business could lead to the combination of a relatively small number of power centers dominating the American economy. This must not be permitted to happen. It would be bad for banking, bad for business, bad for borrowers, and bad for consumers.

This is a bad amendment. It masquerades as being one thing. In point of fact it is something quite different.

Now, I love the gentleman from New Jersey. He is a good friend of the administration, but they are not good friends to him, because they mislead him as to the content of his amendment and what it does.

I would urge the House to reject this unwise amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. RINALDO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RINALDO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 137, noes 272, answered "present" 1, not voting 23, as follows:

[Roll No. 363]

AYES—137

Allard	Gallegly	Lipinski
Andrews (TX)	Gallo	Livingston
Archer	Gekas	Lowery (CA)
Armey	Gilman	Lowey (NY)
Atkins	Gingrich	Machtley
Baker	Glickman	Martin
Ballenger	Goodling	McCandless
Barnard	Goss	McCollum
Barton	Gradison	McCrery
Bateman	Green	McEwen
Bliley	Hancock	McGrath
Boehner	Hansen	McMillan (NC)
Broomfield	Hastert	Miller (OH)
Callahan	Hefley	Miller (WA)
Campbell (CO)	Hoagland	Molinari
Carper	Hobson	Moorhead
Chandler	Holloway	Moran
Chapman	Houghton	Morrison
Clinger	Hughes	Myers
Coble	Hyde	Neal (NC)
Coughlin	Inhofe	Oakar
Cox (CA)	Ireland	Orton
Crane	Johnson (SD)	Owens (UT)
Cunningham	Johnson (TX)	Oxley
DeLay	Johnston	Packard
Dickinson	Kasich	Patterson
Dooley	Klug	Paxon
Doolittle	Kolbe	Ravenel
Dornan (CA)	Kyl	Rhodes
Dreier	LaFalce	Ridge
Emerson	Lagomarsino	Riggs
Erdreich	LaRocco	Rinaldo
Fields	Lent	Ritter
Frank (MA)	Lewis (CA)	Roe
Franks (CT)	Lewis (FL)	Rohrabacher

Roth
Santorum
Schiff
Schroeder
Schumer
Sensenbrenner
Shaw
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Tallon
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Valentine
Vander Jagt
Vucanovich
Walsh
Weldon
Wilson
Wylie
Yatron
Young (AK)
Zeliff
Zimmer

NOES—272

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
AuCoin
Bacchus
Barrett
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Bruce
Bryant
Burton
Bustamante
Byron
Camp
Cardin
Carr
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Gordon
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hunter
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lightfoot
Long
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Parker
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ray
Reed
Regula
Richardson
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schulze
Serrano
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weber
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Yates

ANSWERED "PRESENT"—1

Cooper

NOT VOTING—23

Bilirakis
Boxer
Brown
Bunning
Campbell (CA)
Conyers
Dannemeyer
Dymally
Hertel
Hopkins
Kaptur
Lloyd
Marlenee
Michel
Rowland
Savage
Sharp
Slaughter (VA)
Tanner
Walker
Weiss
Whitten
Young (FL)

□ 1807

Mr. FORD of Michigan and Mrs. KENNELLY changed their vote from "aye" to "no."

Mrs. LOWEY of New York and Mr. DOOLEY changed their vote from "no" to "aye."

Mr. COOPER changed his vote from "no" to "present."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. This concludes consideration of amendments for today.

Pursuant to the order of the House of today, it is now in order to begin the period of general debate for the Committee on Agriculture.

Pursuant to House Resolution 264, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 22½ minutes and the gentleman from Missouri [Mr. COLEMAN] will be recognized for 22½ minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, earlier today, I voted for the rule on this bill. I did so reluctantly. I have great admiration for my friend and colleague, the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the Committee on Banking, Finance and Urban Affairs. He has worked long and hard to bring this bill to the House. However, I cannot support the bill.

H.R. 6 has far-reaching implications for our Nation's banking system and our Nation's economic well-being. Nowhere will the impact of this legislation be more deeply and, most likely, more painfully felt than in rural America.

Despite all the rhetoric on how this bill is better for consumers, this bill continues to take us down the road of fewer and fewer banks. This bill severely disadvantages our Nation's rural banks and ignores the banking needs of rural America.

Mr. Chairman, I agree that the time has come for a reexamination and reform of our Nation's banking laws. The S&L crisis has highlighted the weaknesses and failure in our Nation's regulation of financial services.

H.R. 6 attempts to improve the health of our banking system, strengthen Federal oversight, and minimize over the long haul the taxpayers costs involved in restructuring our banking system

But in doing so, this bill ignores the needs of smaller, locally owned banks and the valuable services they provide to our rural communities and American agriculture.

Our rural communities and towns face two problems.

First, we have Federal regulators who frankly don't care about the problems faced by small- and mid-size banks. This bill ignores the fact that Federal banking regulators are effectively strangling the ability of small community banks to operate profitably.

Mr. Chairman, for a moment, let's listen to a small-town banker from Texas who is having to deal with this regulatory mentality. I received a letter from a small banker and this is what he wrote:

> Loss of community banks will greatly affect the opportunity provide banking services adequately throughout the State of Texas. Not even the large cities of Texas will be spared. You will find that more and more control and decisionmaking will be withdrawn from within the boundaries of the State of Texas as both the East and West coast banks control the financial destiny of the State of Texas.

We are told that all of this consolidation and mergers will improve the quality of banking services and lessen its costs.

Trouble is, that's not what is happening in Texas. Let me continue reading from the letter from my friend and how he now has to handle the refinancing of a mortgage loan in Harlingen, TX:

> We find that all of the documentation and papers concerning the loan have been removed from the state of Texas and now reside in North Carolina. As a result, what would normally have been a fairly inexpensive and easy transfer has become costly and difficult for our customer * * * now [we] must wait weeks before the release papers are returned before we can actually perfect our lien. In the past, these transactions were completed within a matter of hours, or a day or two at the most.

The Bush administration regulators keep telling us that "the market will take care of it." Putting small banks out of business is what they really mean.

Just listen to what the Bush administration's regulators have said about banking regulation in recent years:

"Deposit insurance should be abolished. Most banks would be better managed if owned by giant corporations such as IBM." That was said by Richard Breeden, head of the Securities and Exchange Commission.

"I think 130 banks is all America needs, and 12 giant banks could handle most of America's banking today." So

said William Taylor, the Chairman of the FDIC.

"Bankers will have to merge, consolidate, or be failed in our new banking environment." These are the words of wisdom offered by Robert Clark, the Comptroller of the Currency.

That brings me to my second major concern about this bill—interstate branch banking.

Yesterday's Wall Street Journal quoted the former Chairman of the FDIC, William Seidman, as saying that 3,000 to 4,000 banks will be closed over the next 5 to 6 years.

Mr. Chairman, can you guess where many of these closures will occur? Most of those closures, I dare say, will be in rural areas—just as they have been in the past.

The bill does nothing to ensure that small, rural communities in States like Texas do not become colonies to the imperial banking powers.

We on the Agriculture Committee are sensitive to the plight of rural America.

H.R. 6, as reported by the House Banking Committee, was sequentially referred to the Committee on Agriculture for consideration of matters within our jurisdiction. That jurisdiction includes: The operation of the Nation's commodities exchanges; the extension of agricultural credit; rural economic development; and the agricultural economy in general.

During our deliberations, the Committee on Agriculture adopted a number of amendments to H.R. 6 that addressed our concerns in an attempt to mitigate the adverse implications of this bill on rural and agricultural lending activities.

The Agriculture Committee was able to reach agreement with Chairman GONZALEZ of the Banking Committee and Chairman DINGELL of the Energy and Commerce Committee on amendments to: Ensure that the bill's provision regarding the enforceability of netting contracts cannot be construed to override provisions of laws regulating commodities markets; ensure that the bill's financial privacy provisions do not hinder the Commodity Futures Trading Commission in the pursuit of its law enforcement agenda; and clarify that deposit insurance assessment credits will apply to loans insured or guaranteed by the Secretary of Agriculture.

These largely technical amendments were included in the Rules Committee print of the bill that is now before the House. I want to thank Chairman GONZALEZ and Chairman DINGELL for their cooperation and their willingness to accommodate these amendments.

Unfortunately, two other amendments approved by the Committee on Agriculture were not included in the Rules Committee print, nor were they made in order under the rule. These amendments attempted to mitigate the adverse effects of the bill on our rural communities and financial market participants.

These amendments would have: Required the monitoring of local lending activities of interstate branches operating in rural areas; and assured the maintenance of the status quo with respect to the pass-through of deposit insurance coverage to omnibus accounts containing the funds of futures market customers.

Unfortunately, the Committee on Agriculture's repeated attempts to work with Chairman GONZALEZ on a possible compromise to resolve these matters were unsuccessful.

As reported by the Committee on Banking, Finance and Urban Affairs, section 308 of H.R. 6 is designed to inhibit banks from using interstate branches as deposit production offices.

Section 308 establishes a standard for local lending by interstate branches and required a review by the appropriate bank regulatory agency of any branch which failed to meet that standard. If the regulator finds that the branch was not reasonably meeting the credit needs of the community, the regulator is required to close the branch.

The Agriculture Committee amendment to section 308 would have expanded the provision to provide for a specific standard to trigger the review for interstate branches opened in rural areas.

The amendment would have allowed for the monitoring of the impact of interstate branching on the availability of loan capital to rural borrowers by out-of-state banks. Without the amendment, these banks will be able to escape this review without showing that they are meeting the credit needs of rural areas.

Members of the Agriculture Committee believe this is a modest requirement for banks to be permitted to open interstate branches in rural areas. It would require no more than that a bank which is granted such a privilege reasonably meet the credit needs of the rural community in which the branch is located.

We believe that this standard would have complemented the Banking Committee's section 308. Our amendment would be a prudent check on the ability of out-of-state banks to use new interstate branching authorities to drain rural areas of the financial resources which are so important to the agricultural economy and to rural development.

Unfortunately, the failure of the Rules Committee to make the amendment in order have deprived the House of the opportunity to vote on this modest but important protection for rural communities and rural residents across the country.

Mr. Chairman, the amendments to H.R. 6 offered by the Committee on Agriculture may be considered relatively minor in the context of the bill's main purposes. However, we believe these amendments are necessary for ensuring that the interests of rural America are heard in this debate.

Mr. Chairman, I am disheartened by the inability of the House to consider these amendments by the Committee on Agriculture.

For these and several other more serious reasons, I must oppose passage of this bill. Between what the Federal regulators want to do and what this bill allows them and the big banks to do, we are writing the death warrant for our Nation's small banks.

Yes, banking law reform is needed.

But this bill falls short. This bill does not create a level playing field that allows the entire banking community a chance to operate and make a profit.

Instead, this bill continues to drain the economic life out of rural America. Our farmers cannot afford to stay in business because we keep cutting the budget for our farm programs. Our children are forced to move to the traffic-congested cities and suburbs to find jobs that rural America doesn't offer.

Now we are effectively closing down our small rural banks. With passage of this bill, we might as well turn off the lights in rural America.

Mr. Chairman, I want bank reform legislation. I want to see our banking industry strong and profitable. But I cannot support H.R. 6. This bill drives a stake into the economic future of rural America.

□ 1820

Mr. Chairman, there are many stories that I can tell the Members about how the regulators are running wild. They are closing banks. I can almost attest to the fact that sometimes it is because they do not like the color of the banker's eyes. They are writing up banks for reasons that one could not imagine. Even the Federal Reserve will not allow two small banks to merge because some customer or some director had a loan at that bank, and it just cost them thousands of dollars to hire a lawyer to have to go and explain what the situation is, and then they say, "Well, we were just mistaken," but they have cost the small bank several thousands of dollars.

The horror stories are there. I do not know about the big cities. I do not have access to that information. I am only telling the Members about the small communities throughout rural America, and I am explaining what the regulators are doing and what the rules and regulations are doing. The quotes I gave the Members from people who have been in control give us an ominous sign of what is to happen.

What happens if the banks of rural America go down? America goes down, because we can rebuild our cities should they be destroyed, but what

comes from the land cannot be replaced. Members have heard me say that it all begins where we produce the food and the fiber in this country of ours. There could not be big banks in the big cities, there could not be manufactured items, and there could not be any other things that we produce unless we have the food down there in rural America.

I was asked during the consideration of the farm bill by one of my colleagues from one of the big cities, "Hey, how can I explain to someone in innercity Detroit that I voted for this bill so you can give money to farmers not to plant?"

I said, "Look, I haven't got time to explain that, but all I want you to do is tell the people in Detroit—no farmer, no pickup. That's what you tell the people in Detroit—no farmer, no pickup."

What do you tell the people in the innercity? "No farmer, no food." That is what we are talking about.

Farmers do not have their own resources to do the farming. There has to be some borrowed money, and the farm economy depends in great part on these rural banks in rural America.

With all due respect and with the love, admiration, and respect that I have for the Rules Committee, I say they should have given the Members of the House the opportunity to make the decision, and they should have allowed us these amendments. They say that it was a tough fight but it was within their jurisdiction. Truthfully, I do not know, it may or may not have been, but I think that the House merited at least the opportunity to take a look at these amendments. Otherwise we will be driving another nail in the coffin of rural America, and when rural America goes, everything else goes.

Mr. Chairman, that is the reason why I am not able to support H.R. 6.

Mr. Chairman, I am submitting herewith a more detailed description of the Committee on Agriculture's amendments to H.R. 6, as follows:

AMENDMENTS ADOPTED BY THE COMMITTEE ON AGRICULTURE

PAYMENT SYSTEM RISK REDUCTION

Subtitle A of title VI of H.R. 6, as reported by the Banking Committee, is designed to promote reductions in risks to participants in certain payment systems. It specifies the rules which are to be applied in determining obligations and entitlements under netting contracts in instances where parties to such contracts fail.

The Agriculture Committee has no obligation to the purposes of the provision. However, the committee found that in a number of instances it could have unintended effects that would impinge upon the enforcement of the Commodity Exchange Act—the statute which provides for the regulation of commodity futures trading.

Agriculture Committee Proposal

The amendment adopted by the Agriculture Committee modifies a number of provisions relating to the participation of clearing organizations and their members in netting arrangements. A key provision of the Agriculture Committee's amendment would modify the definition of "netting contract" and stipulate that for purposes of the subtitle's provisions, that term is not to be construed to include any contract that is invalid or precluded by Federal commodities laws. Many of the Committee on Agriculture's improvements to subtitle A of title VI are included in the Rules Committee print of H.R. 6.

CONFIDENTIALITY OF CUSTOMER INFORMATION

The Agriculture Committee is concerned that provisions in title IV of the bill designed to protect and expand the privacy rights of financial services customers would hinder the Commodity Futures Trading Commission in its ability to enforce the Commodity Exchange Act.

Agriculture Committee Proposal

The Committee approved amendments to the bill that would ensure that the CFTC would have proper access to financial records to the same degree as other financial regulatory agencies. Amendments to address the Committee's concerns are included in the Rules Committee print of H.R. 6.

DEPOSIT INSURANCE ASSESSMENT CREDITS FOR LOANS GUARANTEED BY USDA

The Agriculture Committee adopted an amendment designed to address what I believe to have been an oversight in the Banking Committee's version of H.R. 6.

Section 233 allows banks to take credit towards deposit insurance assessment liabilities for making loans under Federal programs designed to assist distressed communities.

The credit is to apply in cases of loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, and the Administrator of the Small Business Administration. The credit is also to apply to loans insured and guaranteed by the Secretary of Agriculture but only insofar as they relate to housing.

Through the Farmers Home Administration, the Secretary of Agriculture insures and guarantees rural development loans in addition to loans and loan guarantees for housing.

Agriculture Committee Proposal

Because loans such as those made by the Farmers Home Administration are clearly related to the purposes of other lending covered by section 233 of the bill, the Committee on Agriculture adopted an amendment which would allow banks to take credits for such loans. This technical amendment is included in the Rules Committee print of the bill.

INTERSTATE BRANCHES IN RURAL AREAS

As reported by the Committee on Banking, Finance, and Urban Affairs, section 308 of H.R. 6 is designed to inhibit banks from using interstate branches as deposit production offices.

This provision establishes a standard for local lending by interstate branches and requires a review by the appropriate bank regulatory agency of any branch which fails to meet that standard. If the regulator finds that the branch is not reasonably meeting the credit needs of the community, the regulator is required to close the branch.

During our hearings on H.R. 6, the Agriculture Committee found that a great many rural Americans are concerned about the potential adverse impact some of the deregulation initiatives proposed in H.R. 6 could have on rural development and the availability of agricultural credit.

Agriculture Committee Proposal

In response to these concerns, the Agriculture Committee adopted an amendment to title III of the bill. This amendment would expand the provisions of section 308 to provide for a specific standard for interstate branches opened in rural areas. Unfortunately, the amendment was not made in order under the rule.

This amendment is designed to allow for the monitoring of the impact of interstate branching on the availability of loan capital to rural borrowers when out-of-State banks exercise the privilege to locate branch offices in rural areas.

Under the amendment, if an interstate branch located in a rural area is found to have a local loan, including loans for agricultural purposes and for rural development, to deposit ratio of less than 50 percent, the branch would be made subject to the review established under the bill as reported by the Banking Committee. If the regulatory agency finds that the branch is not meeting the credit needs of the community, the branch is to be closed.

Members of the Agriculture Committee believe this is a modest requirement under which banks could be permitted to open interstate branches in rural areas. It requires no more than that a bank which is granted such a privilege reasonably meet the credit needs of the rural community in which the branch is located.

This standard is an appropriate complement to the Banking Committee's amendment that will provide a prudent check on the ability of out-of-State banks to use new interstate branching authorities to drain rural areas of the financial resources which are so important to the agricultural economy and to rural development.

DEPOSIT INSURANCE COVERAGE OF FUTURES CUSTOMER FUNDS

The Agriculture Committee also approved an amendment to ensure the maintenance of the status quo with regard to the deposit insurance coverage of funds owned by futures market customers but deposited along with funds of other customers in omnibus accounts.

It is the Agriculture Committee's understanding that the deposit insurance reform provisions of H.R. 6, as reported by the Banking Committee, were not intended to effect the current treatment of such funds. But the Agriculture Committee is concerned that these provisions could be construed in a manner that would prove to be damaging and unnecessarily costly to the hundreds of thousands of farmers, pension fund managers, and other persons who use the futures markets daily.

The customer protection provisions of the Commodity Exchange Act are very strict. Under the Act, all customer funds deposited with a futures commission merchant must be held in "segregated accounts" to ensure that customer funds are kept safe and identifiable regardless of any changes in the financial conditions of the futures commission merchant.

While customer funds are segregated, efficiency in banking and accounting have led to the current situation under which such funds are deposited in omnibus bank accounts in insured institutions by the futures commission merchants who serve as brokers.

Since each customer's ownership interest in such an omnibus account is clearly traceable, the Federal Deposit Insurance Corporation has used its authority to provide insurance coverage for the benefit of each customer for whose benefit funds are deposited

in such an account as if such customer's funds were held in a separate insured account.

While current law does not provide specific guidance to the FDIC regarding the provision of such "pass-through" coverage of deposit insurance, the bill as reported by the Banking Committee amends the Federal Deposit Insurance Act to specify that some types of accounts are specifically eligible for such coverage and some are not.

It is our concern that this treatment of the issue of pass-through coverage of deposit insurance could lead to uncertainty regarding congressional intent.

Agriculture Committee Proposal

While the Agriculture Committee believes that such treatment for futures customer funds would and should apply even without the inclusion of the committee's amendment, the inclusion of the amendment would help to eliminate any margin for error by specifying in the statute that current treatment of futures customer accounts should be extended.

The Agriculture amendment would provide that deposit insurance coverage would extend—as it does under existing practice—to each customer depositor of funds as if the customer's funds were the only funds in the account. This would include funds commingled with those of other customers in an omnibus account.

Coverage would only apply if the covered bank is able to produce clear documentation regarding the identity of, and amount of the deposit attributable to, each beneficial owner of funds maintained in the account.

Mr. Chairman, I do not have any other requests for time. I am informed that the possibility is that the minority does not have requests for time. I do not know if I can do so, but I will relinquish the balance of my time, and if permitted to do so, I will relinquish the time on behalf of the minority.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] reserves the balance of his time, and the Chair observes that the ranking minority member of the Committee on Agriculture is not here to claim his time, and, therefore, yields back his time.

Mr. DE LA GARZA. If that be the case, Mr. Chairman, then I will yield back the balance of my time.

The CHAIRMAN. All time has expired.

Without objection, the Committee rises.

There was no objection.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. CARPER] having assumed the chair, Mr. CARR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6) to reform the deposit insurance system to enforce the congressionally established limits on the amounts of deposit insurance, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent from the House. Had I been present I would have voted "aye" on rollcall Nos. 362, 363 and "nay" on roll No. 361.

NATIONAL HOME CARE WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 175) to designate the weeks beginning December 1, 1991, and November 29, 1992, as "National Home Care Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

Is there objection to the request of the gentleman from Ohio?

Mr. RIDGE. Mr. Speaker, reserving the right to object, I take this time in order to yield to our colleague and friend, the gentleman from California [Mr. PANETTA], the chief sponsor of the joint resolution.

□ 1830

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to take this opportunity to thank Chairman Sawyer for bringing the resolution to create a National Home Care Week in 1991 and 1992 before the House for consideration. I would also like to thank Mr. RINALDO, the original cosponsor of this bill, the other 226 House Members who have lent their support, and Senator HATCH, who has guided the companion bill through the Senate. Congress has approved similar resolutions for the previous 9 years to recognize the valuable services of home care programs and personnel, and I look forward to Congressional passage once again.

Thousands of home care agencies around the Nation have responded to the need for effective alternatives to our health care delivery system. By providing skilled medical assistance and supportive services to those who can be properly treated outside the hospital or nursing home setting, these agencies respond to the demand for new health care options and conserve tax dollars currently expended on needless placement in these institutions. This valuable concept of care provides a serviceable answer to the needs of our health care system, and offers a comforting, dignified environment for patients.

One of the most critical issues to face our Nation today is the state of our health care system. While the growing elderly population, expected to total well over 30 million by the year 2000, places greater demand on our current system, home care agencies have helped many of the elderly remain at home and in their communities. In addition, home care has proven to be a very suitable setting for many others with chronic, impairing diseases, including the large and growing number of persons suffering from AIDS and related illnesses. Home care creates an atmosphere of greater independence and dignity, and promotes maintenance of health as well as recovery. For this valuable service, home care agencies and persons employed in the home care industry should be properly recognized as well as commended.

As we reevaluate and reform our Nation's health care programs, especially in the vital area of long-term care, it is essential for us to take full notice of the benefits of home care and act to encourage its use. I again thank my colleagues for their support of this important resolution, and look forward to the opportunity to recognize this effective and humane health care alternative during the weeks of December 1, 1991, and November 29, 1992.

Mr. RIDGE. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of House Joint Resolution 175, which designates the weeks beginning December 1, 1991, and November 29, 1992, as "National Home Care Week," and I commend the gentleman from California [Mr. PANETTA] the chief sponsor of this resolution.

Home health care has become a vital alternative to institutional care as well as an important element in our Nation's health care system. Since the passage of Federal programs that enable patients to receive in-home care, home care agencies have increased from less than 1,000 to more than 12,000 agencies. The service provided by these agencies has effectively prevented the institutionalization of countless numbers of our older Americans.

Mr. Speaker, our Nation faces a crisis with respect to developing cost-effective, humane, long-term care for our older Americans. More than 2 million persons, age 65 or older, reside in institutions at a cost of more than $15 million. It is estimated that 25 percent of those residents do not require extensive institutionalized care.

The expansion of Federal benefits for home health care, in my opinion is a worthy investment during these times of budget constraints. Home health care can realize a significant savings and provide necessary medical assistance. Home care allows thousands of Americans to maintain independence, dignity, and a lifestyle at home, and be able to meet their health needs.

Accordingly, I urge my colleagues to join with me in supporting this important resolution.

Mr. RIDGE. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 175

Whereas organized home care services to the elderly and disabled have existed in the United States since the last quarter of the 18th century;

Whereas home care is an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving these services;

Whereas since the enactment of the medicare home care program, which provides coverage for skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, and home health aide services, the number of home care agencies in the United States providing these services has increased from fewer than 1,275 to more than 12,000; and

Whereas many private and charitable organizations provide these and similar services to millions of individuals each year preventing, postponing, and limiting the need for them to become institutionalized to receive these services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the weeks beginning December 1, 1991, and November 29, 1992, are each designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HIRE A VETERAN WEEK

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 280) to designate the week beginning November 10, 1991, as "Hire a Veteran Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of the gentleman from California [Mr. BROWN], the chief sponsor of this resolution, and also to yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I am pleased to rise today in support of House Joint Resolution 280, designating the week of November 20, 1991, as "Hire a Veteran Week." and I commend the gentleman from California [Mr. BROWN], the chief sponsor of this resolution.

The latest statistic from the Department of Labor show that 667,000 veterans are unemployed, and that many are underemployed. This bill is a great way to urge help for those veterans who have served and defended our country in our time of need.

Veterans possess many special qualities and skills which make them ideal candidates for employment. Additionally, veterans bring a wealth of experience to the work environment and serve as valuable sources of information. These veterans maintain high standards of performance to meet the productivity expectations of their employers. Most importantly, they know what team work is all about.

House Joint Resolution 280 will remind employers of the advantages of hiring veterans. This measure will educate employers of the existing programs that encourage the hiring of veterans, such as: tax credits to employers for hiring veterans and employer eligibility for special job training partnership act veterans' funds.

Mr. Speaker, I invite my colleagues and all of our Nation's businesses to join in extending job opportunities to our veterans, as we recognize and appreciate the vital contributions our veterans have made to our society.

Accordingly, I urge my colleagues to support this important resolution.

Mr. RIDGE. Mr. Speaker, further reserving the right of object, I have a very good friend that was severely injured during the Vietnam war, John Fails, who is 100 percent disabled. He lost his eyesight. He is about as good a man as I have ever run across. He is a good vet and a good employee. He normally concludes his remarks with his friends and even with strangers with the expression, "Bet on a vet."

I would just encourage members of the business community, those looking for good employees, to make that wager, because I think the veteran will pay back a lot of dividends.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 280

Whereas the people of the United States have both a deep appreciation and respect for the men and women who serve our Nation in the armed forces;

Whereas, although veterans possess special qualities and skills which make them ideal candidates for employment, many veterans encounter difficulties in securing employment; and

Whereas the Department of Veterans Affairs, the Department of Labor, the Office of Personnel Management, and many State and local governments administer veterans programs and have veterans employment representatives both to ensure that veterans receive the services to which they are entitled and to promote employer interest in hiring veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 10, 1991, is hereby designated as "Hire a Veterans Week", and the President is authorized and requested to issue a proclamation calling upon employers, labor organizations, veterans organizations, and federal, State, and local governmental agencies to lend their support to the campaign to increase employment of the men and women who have served our Nation in the armed forces.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL PHILANTHROPY DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 140) designating November 19, 1991, as "National Philanthropy Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the work of my friend, the gentleman from Indiana [Mr. BURTON], who is the chief sponsor of this resolution. I know it means a great deal to him that the committee has brought this to the floor. We certainly strongly endorse this effort. I know that the gentleman from Indiana [Mr. BURTON] believes personally in philanthropy himself, and obviously is unavoidably detained, or I am sure he would be here to speak on this.

Mr. RIDGE. Mr. Speaker, having no further requests for time, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 140

Whereas as of 1989 there were more than 800,000 nonprofit philanthropic organizations in the United States;

Whereas such philanthropic organizations employ approximately 6,000,000 individuals, and use the services of approximately 4,500,000 volunteers;

Whereas in 1989 the people of the United States contributed approximately $114,000,000,000 to support such philanthropic organizations;

Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout the world;

Whereas the people of the United States owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, community service institutions, and institutions and organizations which aid and comfort disadvantaged, sick, or elderly individuals; and

Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the

efforts, skills, and resources of individuals who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 19, 1991, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DUTCH-AMERICAN HERITAGE DAY

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 177) to designate November 16, 1991, as "Dutch-American Heritage Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

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

Mr. RIDGE. Mr. Speaker, reserving the right to object, I do so to acknowledge the sponsorship of this resolution by our colleague, the gentleman from Michigan [Mr. VANDER JAGT]. He is the chief sponsor of this resolution.

Mr. Speaker, having no further requests for time, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 177

Whereas, on November 16, 1776, the batteries at the Dutch port of St. Eustatius fired the 1st salute to the flag of the newly independent United States;

Whereas the firing by the Dutch of the 1st salute to the flag of the United States uplifted the morale and determination of the individuals who were fighting for American independence;

Whereas commemoration of Dutch-American Heritage Day provides an opportunity for approximately 8,000,000 Dutch Americans to celebrate their Dutch roots and the extraordinary contributions their ancestors made to the political, economic, and cultural development of the United States; and

Whereas commemoration of Dutch-American Heritage Day promotes awareness by the people of the United States of the essential role performed by the Dutch people in securing American independence and in aiding the development of the United States for the past 215 years; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1991, is designated as "Dutch-American Heritage Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the several joint resolutions just passed.

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

There was no objection.

ANNUAL REPORTS ON ACTIVITIES UNDER HIGHWAY SAFETY ACT AND NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection referred to the Committee on Energy and Commerce and the Committee on Pubic Works and Transportation.

(For message, see proceedings of the Senate of today, Thursday, October 31, 1991.)

□ 1840

FOUNDATION FOR OCEAN AND COASTAL CONSERVATION IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. STUDDS] is recognized for 5 minutes.

Mr. STUDDS. Mr. Speaker, today I am introducing legislation to establish the Foundation for Ocean and Coastal Conservation in the United States [FOCCUS]. The bill, modeled after the National Fish and Wildlife Foundation Act, would create a nonprofit charitable foundation to support activities associated with important coastal and marine resource protection programs—primarily, but not limited to, the National Estuarine Research Reserves System [NERRS] and the National Marine Sanctuaries Program [NMSP].

The National Estuarine Research Reserves System is composed of specially designated estuarine reserves representing a variety of coastal regions and estuary types. These fragile and important areas, located where the saltwater of the ocean meets the freshwater of the land, serve as natural field laboratories where scientists can study both the natural and human processes that occur within estuaries. Estuaries are among the most biologically productive systems on Earth; more than two-thirds of the fish and shellfish that are commercially harvested spend part or all of their lives in estuaries. A total of 19 estuarine reserves have been established along the coasts of the United States and in the Great Lakes. Seven additional reserves are in development.

The National Marine Sanctuaries Program designates discrete coastal, marine and Great Lake areas to promote comprehensive management of their ecological, historical, recreational and esthetic resources. The NMSP is one of the few marine programs which protects whole ecosystems, thereby protecting individual species before they are threatened. To date, nine National Marine Sanctuaries have been designated; six additional areas are in development, and two more are under study. The unique resources currently protected by the sanctuaries program include the coral reefs in Key Largo, FL, endangered and threatened marine mammals in Cordell Bank, CA, and the wreck of the U.S.S. *Monitor* off the coast of North Carolina.

These two programs lack sufficient funding to carry out their responsibilities and the chance that they will get adequate funding decreases as the Federal deficit increases. The proposed fiscal year 1992 appropriations for NERRS and NMSP are about $3.7 million and $5 million respectively, a small fraction of the $1.7 billion National Oceanic and Atmospheric Administration budget, which is increasingly directed toward weather and satellite programs. With these small budgets, NERRS and NMSP must propose and designate new areas for protection, manage established areas, conduct research, help conserve the fragile but vital resources, and run public education and outreach programs. Historically, most of the programs' funds have been consumed by designation and management responsibilities, leaving little money for research, conservation, education, and public outreach.

The purpose of the legislation I am introducing today is to help generate private funds to bolster these activities which should be—but are not always—conducted. Under my legislation, the Foundation would be authorized to receive up to $1 million annually for 5 years. In addition to Federal funding, the Foundation would actively pursue private and corporate donations. State and local governments, private individuals, and nonprofit organizations would be eligible to apply for one-for-one matching grants from the Foundation to carry out specific conservation, research, education, or public outreach projects.

The bill would also establish a board of nine voting members who are not employed by the Federal Government with the Under Secretary of Commerce for Oceans and Atmosphere serving as an ex-officio member to appoint officers, hire employees, and adopt a constitution and by-laws for the Foundation. To help get the Foundation started, the Under Secretary would provide, without reimbursement, office space and administrative support and may provide personnel.

Mr. Speaker, through the work of the Fish and Wildlife Foundation we have seen a relatively small investment go a long way toward protecting our fish and wildlife habitat. Because of the success in generating private matching funds, Federal outlays have in-

creased from $1 million annually to $5 million annually. The Fish and Wildlife Foundation now provides support and funding for more than 135 projects a year with an annual budget of $20 million.

It is my hope that the Foundation for Ocean and Coastal Conservation in the United States will provide a similar stimulus to coastal and marine programs. With Federal dollars growing increasingly scarce, this bill provides an opportunity to stretch our taxpayers' dollars farther by combining them with private matching funds. The result will be more comprehensive programs to protect these invaluable areas for ourselves and for future generations.

Mr. Speaker, this is a good bill and I urge its support.

SCHEDULING OF BUSINESS FOR HALLOWEEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. SANTORUM] is recognized for 5 minutes.

Mr. SANTORUM. Mr. Speaker, if I may engage in a colloquy with the gentleman from Pennsylvania [Mr. RIDGE].

It is now a quarter of seven here in the East. We got out of session today shortly before 6 o'clock. Does the gentleman from Pennsylvania know why we left early today?

Mr. RIDGE. Mr. Speaker, will the gentleman yield?

Mr. SANTORUM. I yield to the gentleman from Pennsylvania.

Mr. RIDGE. It is my understanding, and I think properly so, that the leadership on both sides of the aisle wanted to accommodate Members and families who live in and around the Washington area to keep the evening free so that Members and families who live in and around the Washington area could go home and enjoy the Halloween evening with their young children at home. I think it is certainly commendable and appropriate that we adjourned for that.

Mr. SANTORUM. Mr. Speaker, I appreciate that.

The question is, we did that in the middle of doing amendments on the banking bill; is that not correct?

Mr. RIDGE. That is correct.

Mr. SANTORUM. As a result, we are going to be in tomorrow at 10 a.m., if I am not mistaken.

Mr. RIDGE. If the gentleman will continue to yield, I think that is what the schedule says.

Mr. SANTORUM. As a result of that, those of whom you or I are in a similar situation who have families outside of the beltway, who have families at home, were not able to spend the evening with their children celebrating trick or treat. Is that not the understanding?

Mr. RIDGE. It is.

I think that the gentleman and I talked a little bit earlier this evening. I am pleased that we were sensitive to the needs of the families here in the Washington community.

Mr. SANTORUM. I concur with the gentleman. I agree we should be.

Mr. RIDGE. The point, in fact, is that there are many of us who have young families at home. We have chosen to go back to our districts every weekend. We have chosen to raise our families in the districts that we represent.

I might add, it is not only the fact that my last flight left at 4:10 to join my kids tonight, but because of this and the unlikelihood of our completing the banking bill tomorrow, we will be back on Monday, if we do not complete it tomorrow, which means not only did we not get home tonight because of trying to accommodate Washington-based families, but we will be back a day earlier.

Certainly they do not have any problem because they are going back home again on Monday night. So while I think that it is well that we accommodate families who live in and around Washington, I would like to think that the leadership on both sides of the aisle and those who are responsible for scheduling have a little bit more empathy and sympathy for those of us who have families at home.

I think the gentleman has a young family at home as well.

Mr. SANTORUM. Mr. Speaker, I do. This, in fact, is the first trick or treat, the first Halloween for my 7-month-old daughter. And she is dressed up as a pumpkin tonight, my wife tells me, and has been handing out candy to friends around the neighborhood.

I just want to tell her, if she happens to be watching me back at home, that I miss her very much and I wish I could be there also and that hopefully that this institution will start to have some sensitivity to families who wish to stay in their districts and live in their districts and to be part of the community, that we also are given consideration on the sensitive times and that, Elizabeth, if you are watching, I love you and thank you for putting up with your daddy.

Mr. RIDGE. If the gentleman would continue to yield, I think it is a dilemma for a lot of Members, Republicans and Democrats alike, those with young families.

I know behind the back rail over the past couple of years, I have heard a lot of us who choose to keep our families at home have these private discussions. So when the gentleman asked me to engage in this colloquy, I was very pleased to do it.

I think it is high time that people in this Chamber understand that not everybody lives in Washington, DC. Some of us by choice choose to live, work, worship back home. And when they go about scheduling things around this town, that they have a little bit more consideration for those of us to choose that particular life-style.

I am delighted that my friends around here are back home with their families. Obviously I am a little upset and disappointed that I cannot be home with mine. But hopefully, in the future, they will have a little more sensitivity to us.

I thank the gentleman for asking me to participate in this colloquy with him.

Mr. SANTORUM. Mr. Speaker, I thank the gentleman for doing so.

TRIBUTE TO MARK LEMKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. BOEHLERT] is recognized for 5 minutes.

Mr. BOEHLERT. Mr. Speaker, the World Series is now history. The excitement and shouting are over and but a memory lingers.

I have intentionally waited several days to give my colleagues from Minnesota and Georgia the opportunity to take their rightful place in the limelight as we recall with fond memories the fall classic. But now I want to tell my colleagues about the New York connection because I think it is appropriate that all America recognize the very special involvement had in this World Series.

We can recall out at the Hubert Humphrey Stadium in Minnesota people holding up a sign that said, "What is a Lemke?"

Well, I am here to tell my colleagues what a Lemke is. A Lemke is an exciting, talented young athlete from Whitesbore, NY, attended Notre Dame High School, who chased a dream and through grit and determination and hard work he achieved that dream, playing second base for the Atlanta Braves in the World Series.

And all the eyes of the sports people and fans around the world were focused on what was happening in that fall classic.

What did Mark Lemke do? He earned a warm spot in all of our hearts. He not only won game three with that dramatic 12th inning hit, which earned for him the most valuable player award. Then in game four he continued his winning ways and scored the winning run. And he did not rest on his laurels. In game five he continued, setting a World Series record by hitting two triples.

Mark Lemke, day after day, showed up for the job and did it to the best of his ability. And, boy, did his ability shine. He batted .417.

Here is a young man who came to the Atlanta Braves this year in spring training, was not even on the full team roster. As a matter of fact, some people were speculating that maybe Mr. Lemke would be sent back to the minors.

□ 1850

But he would have none of that. You see, this young kid, and he is a fine

gentleman, worked hard. He did everything we tell our young people to do. He finely tuned his skills. He was there early. He practice hard. He kept giving it his all. Then in the fall classic came his moment in the limelight, batting .417. People all over were saying, "Who is this kid? Where did he come from?"

I am here to tell you, my colleagues, where he comes from. He comes from beautiful upstate New York, Whitesboro, to be exact. And he is the personification of all that we look for in our young people; a very modest kid, but a very talented kid who worked hard and who displays his skills for all to see.

He did so much for so many in those six of seven games that he played. He did not even start or play in the first game, but boy, he got his chance and he made it.

I will tell you what a Lemke is. A Lemke is a role model for young people, not just young people in age, but young people in spirit. I will tell you this, watch out for next year, because Mark Lemke of the Atlanta Braves has arrived, and he is going to continue to serve as a role model for young people to perform at his trade to the best of his ability, and boy, did he rise up to the occasion.

It is a pleasure to serve as the Representative in Congress for the Lemke family. It is exciting for me as a fan to turn on that TV and see one of our best and brightest young people, one of our most talented young people, excel at America's sport.

So I am here today to tell my colleagues from Minnesota congratulations, you have earned them. I am here to tell the people of Georgia that you should be proud of those Braves. They did a magnificent job. And I am here to encourage young people all across this land to follow the example set by a wonderful, talented young man named Mark Lemke.

Mr. Speaker, I include with my remarks a very moving column written for the Observer-Dispatch of Utica, NY, by a talented sportswriter, Marty Lyons.

AS THE SPOTLIGHT SLOWLY FADES, LEMKE THE MAN IS STILL SHINING

(By Marty Lyons)

"What is a Lemke?"

A sign hanging from a railing at the Metrodome posed the question Sunday night during Game 7 of the World Series.

From all accounts, a Lemke is indigenous to Whitesboro, where it spends its formative years romping in the dirt and grass of local playgrounds.

A Lemke is friendly enough, but corner one on a baseball field and see how it scratches and claws and digs in. A Lemke is usually overshadowed by larger and stronger creatures but every so often gets caught in a spotlight and casts its own long shadow.

Mark Lemke's incredible rise to World Series fame is over, but fans here and in Minnesota will long remember the battle-tested second baseman who brought the Atlanta Braves to the brink of the World's Championship with his clutch hitting and hustle.

What is a Lemke?

He's a 27th-round draft pick who spun his wheel in the Class A bushes for three seasons and didn't hit the big time to stay until his eighth pro season. He's a guy who used baseball mitts broken in by a younger neighbor to forge the reputation as a defensive whiz that carried him to the major leagues. And he's a guy who takes nothing for granted, after reading quotes from his former manager, Russ Nixon, that he would be Atlanta's starting second baseman on opening day in 1989 and then being sent back to the minors.

"He's the original dirt player," said his current manager, Bobby Cox.

In the past week, Lemke rose from the dirt to become a made-for-TV star.

He drove in the winning run in Game 3, scored the winning run in Game 4 and tied a World Series record with two triples in Game 5. He led the Braves with a .417 batting average.

Suddenly, cameras were following him home to tape him opening his front door, just to show he's a regular Mark. CBS sportscaster Pat O'Brien wanted to have breakfast with him at 8 a.m. Lemke politely declined, since he wasn't getting to sleep until 4.

That's another thing we learned about Lemkes. They need their rest.

Lemke was Atlanta's front-runner for Series MVP and still might end up sitting next to David Letterman this week, if Minnesota pitcher Jack Morris, who did win the MVP, can't make it to "Late Night."

The head-spinning ride will slow to a crawl today, with convertibles carrying Lemke and his teammates down Peachtree Street in Atlanta, the sounds of adoration washing over them one last time.

And when the parade is over, what then?

Lemke will probably spend a week or so in Atlanta, his mother, Patricia, said last night. If he follows his form of past years, he'll then spend a couple of weeks visiting his brother and sister in Florida.

"Then he might come home," Patricia Lemke said. "I just don't know. It's very difficult to say."

He might be home for Mark Lemke Day in Whitesboro Nov. 16. If he can't make it, he'll have a reason and likely send his regrets, if the family members, friends and former coaches who have been interviewed in the past week by the nation's media are correct in their character assessments.

A $138,000 annual salary has allowed Lemke to upgrade his wardrobe to include $500 suits, joked friend Al Calogero of New Hartford, but he doen't "big league" it, a term for players who forget their past in the flush of fame.

Everything Lemke said during his dream week suggested he remained in touch with reality.

"I think the fact that the Series is so magnified makes your contribution seem above the level that you are playing all season long," he said.

And this.

"I just want to say thanks to my family and friends in Utica for their support for the Braves and for myself throughout my career. And to thank them for giving me the opportunity as a youth to play ball."

What is a Lemke?

A pain in the neck to the Minnesota Twins.

A big league ballplayer with spikes planted firmly at home.

IRAN'S NUCLEAR EFFORT

The SPEAKER pro tempore (Mr. PARKER). Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, I rise to bring to the attention of my colleagues two reports published by the House Republican Task Force on Terrorism and Unconventional Warfare, of which I am the chairman. I will include these two reports to be submitted into the RECORD following this statement.

These reports, published in July 1991, address the issue of Iran's nuclear effort. They are especially apropos in lieu of recent media accounts that the People's Republic of China has assisted Iran in the advancement of Iran's nuclear technological capabilities and the fact that this information was adamantly denied by senior administration officials this summer.

Keeping in mind the times at which these reports were released, it is asserted that, "Iran appears to be both nearing rudimentary military nuclear capabilities on its own and to be gaining access to Pakistan's operational nuclear arsenal and mature military nuclear technology at the same time." In addition, "there are indications that an imminent and fairly large cooperative endeavor is being contemplated with the People's Republic of China."

The reports go on to state that:

* * * in the summer of 1991, Iran is more determined than ever to acquire military capabilities because such strategic capabilities constitute an integral part of Teheran's plans for a greater strategic role and posture in the Persian Gulf. Toward that end, Teheran has embarked on "ambitious and aggressive" plans for "the modernization, diversification and nuclearization of its armed forces. The primary sources for the strategic technologies are Pakistan and North Korea.

In the words of Hashemi-Rafsanjani: "We are determined to complete these major nuclear projects and will do so with the help of God."

I find it of great concern that the information released in these reports, information that is based upon the meticulous research and analysis of public documents, was so easily dismissed by senior officials within the administration. However, what is even more disconcerting is the fact that, as was uncovered several weeks ago by Lally Weymouth of the Washington Post and reported in today's edition of the newspaper, similar evidence was also given to these senior officials this summer by our own intelligence community and was likewise ignored and publicly refuted.

I encourage my colleagues to thoroughly read these documents and am assured that you will find them extremely informative and enlightening.

The articles referred to previously follow:

IRAN'S NUCLEAR EFFORT

(By Yoseff Bodansky and Vaughn S. Forrest)

Iran appears to be both nearing rudimentary military nuclear capabilities on its

own, and to be gaining access to Pakistan's operational nuclear arsenal and mature military nuclear technology at the same time. Indeed, since Khomeyni seized power, Teheran has tried to revive and expand the Shah's semi-clandestine nuclear weapons program. Thus, in 1986, Iran began a second and fast track approach to obtaining a nuclear capability through a cooperation agreement with Pakistan according to which Iran would have access both to Pakistan's weapons and technology.

The origins of this project stem from the period when Khomeyni's closest aids began to investigate Iran's military nuclear potential almost immediately after seizing power in February 1979. In May of that same year, Ayatollah Mohammad Beheshti summoned Dr. Freidun Fesharaki, one of Iran's leading nuclear scientists, for an interview in Teheran. Beheshti had with him proposals for the conversion of Iran's nuclear reactors, constructed during the Shah's regime, to the production of nuclear weapons that had been written by Dr. Fesharaki several years before. Beheshti showed Fesharaki the documents and wanted to know if they could still be implemented. "It is your duty to build this bomb for the Islamic Republican Party. Our civilization is in danger and we have to do it," Beheshti stated. He then told Fesharaki that the potential cost of such a project was irrelevant and sent him to the West to recruit Iranian scientists who had escaped during the revolution, whereupon, Fesharaki seems to have defected. (His subsequent career, it should be noted however, would have twists suggesting that his defection may in fact have been faked.)

At the time of Fesharaski's "defection", Iran had 5 reactors in different stages of construction. A 5 megawatt (mw) US-made research reactor was operational at Teheran Polytechnique, later renamed the Amir Kabir College. Two additional 1300 mw (each) reactors were being built by the West German Kraftwerk Union company in Bushehr. (In 1979, one was 75–80% complete and the other 60% complete.) Finally, the French company Framatome had just begun building a 935 mw reactor in Darkhouin. However, by the time the project had begun, the Shah's government had invested more than $1b in the French nuclear program in a contract that would permit Iran virtually free access to French nuclear technologies and to large quantities of military-grade enriched uranium. Nonetheless, by the time of the Khomeyni Revolution, Iran had not received any technology or the uranium.

In the summer of 1982, Teheran approached the Kraftwerk Union company and demanded the resumption of the work on the Bushehr reactors. After 3 years of negotiations, Bonn vetoed the project. However, all this time, construction and technical conditioning work was being carried out via the Fritz Werner company, then already running several armament production facilities in Iran. (Indeed, a German technician was killed when the Iraqi Air Force bombed Bushehr in 1987.) In 1985, Kraftwerk Union arranged for an Argentinean subsidiary to train Iranians and to deliver 20% enriched uranium and nuclear core technology to both Bushehr and the Amir Kabir College. Argentinean support and supplies continued to arrive at least until 1988. Ultimately, in March 1987, Iran informed the International Atomic Energy Agency (IAEA) that it had installed fissionable material in the Bushehr I reactor.

During this time, Iran had also been pursuing alternate means of obtaining nuclear materials. In the Amir Kabir College, scientists were trying to activate 4 US-made laser separators, delivered back in 1978, to produce weapons grade uranium. In Isphahan, a Nuclear Research Institute was opened in 1984 with technical assistance from France and Pakistan. This institute opened the door to Iran's short-cut to the bomb. Further, in February 1986, Pakistan offered to train Iranian nuclear scientists in return for financial support for Pakistan's own nuclear program.

Meanwhile, the Iranian military nuclear program had been accelerating since mid-1985, with Teheran launching an intense recruitment effort of Iranian scientists and students living abroad, as well as of foreign scientists and expert technicians. The Iranians were promised, in addition to a generous salary, a complete amnesty to all members of their extended family; quite an inducement in view of the terror than prevailing in Teheran. The response was sufficiently promising for the Atomic Energy Organization of Iran (AEOI) to run a conference in Bushehr on 14–19 March 1986 about employment prospects and research potential in Iran for interested visitors.

Subsequently, in January 1987, Iran's leading nuclear scientists held a high level meeting in the Amir Kabir College. Dr. Fesharaki returned to Teheran at that time, but denied taking part in the conference despite the fact that others in attendance insisted that he was present in some of the sessions/meetings. Another key visitor to Iran at the time was Dr. Abdus Qadir Khan, the father of the Pakistani bomb. He visited both Teheran and Bushehr to assess the Iranian nuclear potential and to discuss future cooperation with the Iranian leadership. Ayatollah Ali Kamene'i, then Iran's president, took part in the conference and delivered a speech to the participants. "Regarding Atomic energy, we need it now," he declared. "Therefore, we need a tireless effort from all of you brothers in this field. Our nation has always been threatened from outside. The least we can do to face this danger is to let our enemies know that we can defend ourselves. Therefore, every step you take here is in defense of your country and your revolution. With this in mind, you should work hard and at great speed."

Soon afterward, Iran and Pakistan signed an agreement on technical cooperation in military nuclear fields. Two senior Iranian scientists, Sayyid Reza and Hadi Rambashahr, went to Kahuta and were later joined by a few other Iranians to begin organizing a training program. Within a year, over 30 Iranian nuclear specialists had been sent to Pakistan, mainly Kahuta, to join the Pakistani program and receive advanced training. Eventually, all the Iranians became involved in several key aspects of weapons construction, including Plutonium extraction.

In the meantime, Teheran left no doubt about its interest in a comprehensive military program for the development of weapons of mass destruction. On 6 October 1988, Hojjat ol-Islam Ali Akbar Hashemi-Rafsanjani outlined Iran's policy in a speech to officers of the Islamic Revolutionary Guards Corps:

"With regards to chemical, bacteriological, and radiological weapons training, it was made very clear during the war that these weapons are very decisive. It was also made clear that the oral teachings of the world are not very effective when war reaches a serious stage and the world does not respect its own resolutions and closes its eyes to the violations and all the aggressions which are committed in the battlefield.

"We should fully equip ourselves both in the offensive and defensive use of chemical, bacteriological, and radiological weapons. From now on you should make use of the opportunity and perform this task."

Subsequently, there was a corresponding progress in Iran's nuclear technologies capabilities. By 1988, the installations in the Amir Kabir College, most likely the German-Argentinean equipment, were capable of extracting Plutonium, although it was not clear how long it would take to have enough for a bomb. By late-1989, the Pakistanis were helping Iran to optimize a reactor for the extraction of Plutonium and Iran was also expected to become the first importer of Pakistan's new reactor of indigenous (with Chinese assistance) design. Speaking in an exhibition of Chinese electronic equipment in Karachi on 16 January 1991, Munir Ahmad Khan, the Chairman of Pakistan's Atomic Energy Commission, declared that "Pakistan has achieved some extraordinary success in the manufacturing of nuclear fuel and is now manufacturing a nuclear reactor and a power generating reactor." He added that "China's backing for Pakistan's peaceful nuclear efforts is encouraging and praiseworthy." Subsequently, Iran launched an intense program to discover indigenous sources of uranium and on 2 December 1989 announced the discovery of deposits containing 3200 tons of uranium and 4200 tons of molybdenum.

Thus, Iran continues to expand its nuclear cooperation with other Third World countries with emphasis on easy access to US technology. For example, Iran's AEOI signed an atomic cooperation agreement with Mexico on 28 April 1991. Under the agreement, Iranian students and specialists will be sent for advanced studies and exchange work in Mexico while Teheran will finance several projects of the Mexican energy and mining industries.

In addition, the Gulf Crisis further propelled both Teheran and Islamabad to significantly accelerate their military nuclear programs. The Karachi *Nawa-i-Wagt* observed on 25 January 1991 that in view of the Gulf situation, "Pakistan needs credible 'nuclear deterrence' to avoid the dangers of war. . . . in the subcontinent." Islamabad, in this context, is anticipating a major clash with the US over strategic issues, including the Pakistani military nuclear program, as part of America's confrontation with the rise of Islam as a world power. Thus, on 1 February 1991, *Nawa-i-Wagt* warned that "the United States just cannot bear any Arab or Islamic country to develop nuclear capability,'" and toward this end, "the United States is forcing itself on Pakistan's nuclear program."

Iran rallied immediately to Pakistan's banner. The Speaker of the *Majlis*, Hojjat ol-Islam Mehdi Karrubi, arrived in Islamabad in late February to discuss military cooperation, including defense industries and nuclear weapons. Karrubi announced that "no country has the right to come here and make decisions about the future of Islamic countries." He then emphasized "the need to increase cooperation between Pakistan and Iran" because "there is a great need for the defense of this region." Iran then deposited $50m "in revolving funds" in Pakistani banks for the support of special key Pakistani defense programs, especially nuclear related programs.

Thus, Islamabad sees in even tighter cooperation with Teheran the key to its regional strategic posture. On 26 February, the *Nawa-i-Wagt* hailed, the special pacts" be-

tween Iran and Pakistan and urged their expansion in view of the current circumstances.

"In Pakistan nuclear education is not available because we have been relying on 'foreign sources.' The doors to these sources have now been closed on Pakistani students. Pakistan's future is linked to nuclear education. It would be beneficial to regional independence and security, if Iran and Pakistan cooperate and conclude major pacts in nuclear education for joint syllabus, joint instructions, and joint laboratories."

Such cooperation is seen as a central component in a comprehensive alliance between the two countries against a common enemy, namely, the US. "The backbone of the superpowers, which are still in the Gulf continuing the political shelling on Iran and Pakistan, cannot be broken. We believe that a closer military cooperation between Iran and Pakistanis is just a matter of time and both countries should pay closer attention to it."

Emboldened by such rhetoric, Iran has surged ahead in its attempts to regain Western nuclear technologies and materiel. Indeed, the Iranian Atomic Energy Organization (IAEO) renewed its requests for assistance from Germany and for the delivery of enriched uranium from France.

Thus, on 29 June 1991, Teheran announced that it "cannot remain indifferent" in view of the German refusal to assist in the completion and activation of the two reactors in Bushehr. Iran was willing to immediately invest the $30m required to update the safety procedures in the reactor as required to meet German regulations. Iran also threatened Germany with legal action in order to recover the $10b Iran claimed to have been lost because of the German delays in completion of Bushehr. In early-July, the IAEO appealed to the Germans to reconsider their position. Teheran was willing to understand Germany's reluctance to provide spares during the war when the Bushehr site was subjected to Iraqi air attacks, but could see no reason for refusal to sell parts now that the war was over.

Late, in July, as part of the great rapprochement with France pending the September visit by President Mitterand to Teheran, Iran suddenly brought up the issue of the enriched uranium purchased by the Shah and demanded that it be delivered to Iran. Iran announced that it was even willing to renew its investment in the "Eurodif" (French nuclear industries) project if this would expedite the delivery of uranium.

At first, the French rejected any possibility for nuclear cooperation. However, with enticing financial arrangements, and with the emergence of a back door approach, namely, the restoration of the existing site in Darkhouin through Pakistani intermediaries, the deal is not completely dead. Reportedly, France is even said to be willing to consider supplying non-military 20% enriched uranium.

Thus, in the summer of 1991, Iran is more determined than ever to acquire military nuclear capabilities because such strategic capabilities constitute an integral part of Teheran's plans for a greater strategic role and posture in the Persian Gulf. Toward that end, Teheran has embarked on "ambitious and aggressive" plans for "the modernization, diversification and nuclearization" of its armed forces. The primary sources for the strategic technologies are Pakistan and North Korea, while the setbacks caused by French and German reluctance to provide nuclear technologies and enriched uranium do not discourage Teheran. "We are determined to complete these major [nuclear] projects and will do so with the help of God," Hashemi-Rafsanjani declared on July 7.

Thus, if Iran's dogged efforts to acquire other strategic capabilities such as chemical and biological weapons, as well as surface-to-surface ballistic missiles, are to serve as indications of the future of Iran's nuclear weapons program, then the world should get used to the idea of Iran as a likely nuclear power.

(This paper may not necessarily reflect the views of all of the Members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion and debate.)

TASK FORCE ON TERRORISM AND UNCONVENTIONAL WARFARE, HOUSE REPUBLICAN RESEARCH COMMITTEE, U.S. HOUSE OF REPRESENTATIVES

Washington, DC, July 29, 1991.

IRAN'S NUCLEAR EFFORT—UPDATE

(By Yossef Bodansky and Vaughn Forrest)

(EDITOR'S NOTE.—The following paper is a further elaboration on the recently released Task Force paper dealing with the efforts of the Iranian government to develop nuclear weapons technology. This is intended as a supplement to that paper.)

When Ali Akbar Hashemi-Rafsanjani declared on July 7, 1991 that Iran was "determined to complete these major [nuclear] projects and will do so with the help of God," Iran was actually even closer to realizing its objective than had previously been known. The setbacks caused by French and German reluctance to provide nuclear technologies and enriched uranium motivated Teheran to immediately strike a deal with the People's Republic of China that brought it significantly closer to its dream of a nuclear arsenal. Thus, in retrospect, it seems that the rejection of Iran's approach to France and Germany earlier this summer was actually a last check on them prior to committing to decisive cooperation with the PRC.

The turning point in Iran's quest for nuclear weapons was on 8–9 July during the visit to Teheran by China's premier Li Peng. The original objective of the visit was to conclude a series of military, military-industrial, and economic agreements with Iran totalling about $5b a year. These agreements were signed in Teheran by Li Peng and Hashemi-Rafsanjani.

However, on the eve of the visit, as the reluctance of the West to resurrect the Iranian nuclear program was becoming apparent, Teheran agreed to Islamabad's repeated urgings to rely on the Chinese as the primary, and virtually sole, source for military nuclear technologies. Iranian nuclear experts had been exposed to Chinese military nuclear technologies while working in Pakistan and had grown to like it. Moreover, the Chinese had observed the Iranians at work. Thus, in June, Islamabad urged Beijing to respond favorably to Iranian requests for aid and hailed the benefits and effectiveness of their on-going close cooperation with Iran.

Subsequently, Beijing agreed in principle, but conditioned the final decision on strategic discussions with the Iranian leadership and first-hand thorough inspection of conditions in Iran. Li Peng's visit to Teheran provided an opportunity for meeting both conditions. He held lengthy discussions with Hashemi-Rafsanjani and the Iranian elite about Iran's and the "Muslim Bloc's" regional strategies, and the prospects of close cooperation with Pakistan. Li Peng was then taken to Isfahan to inspect the main military-industrial complexes where Chinese and North Korean experts and technicians were helping to develop Iran's growing missile industry. He talked to the senior Chinese experts on site about their working conditions, their assessment of the Iranian technological capabilities and the overall security of the projects.

Li Peng was apparently satisfied with what he saw, because he subsequently agreed to provide Iran with "the necessary expertise and technology for the completion of an Iranian nuclear reactor." The specific details of this plan are to be completed this summer. The Iranians would like to expedite the program by building on their existing cooperation with the Pakistanis, an arrangement which suits Beijing's interests.

Indeed, so eager was Iran to placate China in this regard that the IRGC Commander, Mohsen Rezai left almost immediately for a high level visit to Pakistan. He met in Islamabad with the President, the Prime Minister and the entire high command "to review issues in the area of defense and ways of consolidating unity between the two countries." The other major aspect of Rezai's visit was that he and "the Iranian military delegation inspected a number of military industries as well as the new weapons Pakistan has manufactured with the help of a number of countries, including China." Teheran presented the visit as a strategic milestone in the effort to rejuvenate the Muslim world.

Although no specific details were provided as to the extent and timing of the Iranian cooperation with the PRC, there are indications that an imminent and fairly large cooperative endeavour is being contemplated. Further, in return for nuclear assistance, Teheran also promised not only not to agitate the Muslims of Xinkiang, where the bulk of the PRC's military nuclear facilities are located, but even to send Mullahs to preach and urge cooperation with Beijing.

Therefore, Iran seems to be on the verge of the final phase of the process of acquiring at the very least a rudimentary military nuclear capability, and possibly even more sophisticated weapons, through direct assistance from the PRC and by gaining access to Pakistan's operational nuclear arsenal and mature military nuclear technology.

(This paper may not necessarily reflect the views of all of the Members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion and debate.)

Mr. Speaker, I understand it is your birthday today, and I wish you a happy birthday.

The SPEAKER pro tempore. The Chair appreciates that.

DEMOCRATIC TRICK OR TREAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, it is Halloween, and everyone in this body tries to get in the spirit of the holiday. But we Republicans are disadvantaged because it is the Democratic Party which is the party of tricks and treats. The trick is telling the American public that our tax system is unfairly burdensome on the poor. The treat is the

pork and expensive favors that they hand out to every special interest group that comes knocking at their door.

The Democrat gremlins have been claiming over and over and over again that Republican tax policies favor the rich.

Consider this: In 1981, the richest 1 percent of taxpayers paid 18 percent of all taxes. In 1988, after 8 years of Reagan administration, that wealthiest 1 percent paid 27 percent.

Today: The wealthiest 50 percent of taxpayers pay 95 percent of all income tax, and 83 percent of all Social Security taxes.

Republicans believe in lower tax rates for all—which yields higher revenues for the Government.

The ghoulish spenders and taxers on the other side of the aisle are trying to stir class hatred between rich and poor. This yields high deficits, unemployment, and, ironically enough, lower tax receipts.

But let's truly unmask the Democrats' tax charade:

If the tax rates of the last Democratic administration were still in effect:

A family with annual income of $10,000 would pay 134 percent more in taxes.

A family with annual income of $1 million would pay only 62 percent more in taxes. Of course, they would still have their tax loopholes written into the Code by Democrats so their rich buddies in Hollywood and Wall Street would be paying much much less.

Worse than that, the interest rates would be 21 percent, we'd have double digit inflation, and our deficit would be twice as big. Frighteningly, we already are seeing the rise of an eerie spectre: the Ghosts of Halloween Past, if you will. It's none other than Old Man Malaise. Why is he around again?

Well, to the degree that the economy is now in trouble, it can be traced to the power of liberal big spending Democrats to reassert their policies of tax and spend. It started downhill after the liberals regained control of the Senate in 1986, and peaked last November when they put President Bush's back against the wall and forced him to accept a massive tax hike, even on a fragile economy. Now with the country on the skids, one of the Democrats' chief economic hobgoblins, Senator BENSTEN is calling for a tax cut. Surprise. Surprise.

How is this possible?

That's because it doesn't take a fortuneteller to realize what a success the Republican tax cuts of the 1980's were in raising revenue. In fiscal year 1981, tax receipts equaled $599 billion. By fiscal year 1988, they were over $1 trillion. That's a 43-percent increase in revenue fueled by the largest tax cut in history. So Republicans gave us lower taxes, more jobs, and economic growth.

Take that to the pumpkin patch and sell it.

Nevertheless, we have big-spending liberals who claim that increasing the Federal take from $599 billion to over $1 trillion isn't enough. They blame a lack of taxes for our increasing deficit. But if tax receipts have risen sharply, why is the deficit growing at a horrifying rate? It's simple—the powers that be in the U.S. Congress have been giving treats to their friends and supporters at an evermore accelerated pace than our increasing tax revenues. In the last 3 years spending has increased, this at the same time defense spending was shrinking. Until we control spending, the deficit will continue to soar like a witch on a broom.

But Mr. Speaker, I've got a better use for that broom: It's time to sweep the big taxers and spenders out the door. They've done too much damage to our economy. The people are frightened out of their wits, and justifiably so.

The Democrats offer us howls and wailing. Republicans offer policies which encourage real economic growth and higher take-home pay that won't be gobbled up, like so much Halloween candy, by the Federal cookie monster.

We are now witnessing the spectacle of some Democrats, like Senator BENTSEN embracing a tax cut to stimulate growth, while other Democrats are pushing to increase the tax burden on the American people. And the people don't buy the line that somebody else is paying those taxes. They know that in the end the Government will be putting its grasping hands into their bag of candy.

Because of the fairness of the Reagan-Bush tax program real income for all Americans has grown 16.4 percent between 1981 and 1988. During the failed Carter administration, real growth grew a paltry 4.1 percent. That's not a full picture, of course. It takes 2 years for a policy to be put in place and have an impact on any society. That means the Democrats should be judged on the years 1979 to 1983. What a disaster. Even Kevin Phillips can't make that look good. He can only blame it on Reagan.

On a per-person basis, for example, the family incomes of the poorest 20 percent declined 17.4 percent between 1979 and 1983.

Between 1983 and 1989, the poorest 20 percent saw income rise 11.8 percent. The Republican economics.

It's time for the other side to quit tricking the public. Our citizens don't deserve to be needlessly spooked by your liberal gobbledygook. Let's level with the American public and establish a truly fair tax system.

That means lower taxes and lower spending.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. LLOYD (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. SAVAGE (at the request of Mr. GEPHARDT) for today on account of illness.

Mr. BILIRAKIS (at the request of Mr. GEPHARDT) for today, tomorrow, and until 2 p.m. on Monday, November 4 on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SANTORUM) to revise and extend their remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes, today.

Mr. RIGGS, for 60 minutes, today.

Mr. CRANE, for 5 minutes each day, on November 6 and 7.

Mr. ROHRABACHER, for 60 minutes, today.

Mr. BOEHLERT, for 5 minutes, today.

Mr. SANTORUM, for 5 minutes, today.

(The following Members (at the request of Mr. BERMAN) to revise and extend their remarks and include extraneous material:)

Mr. SKELTON, for 5 minutes each day, today and on November 1.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. STUDDS, for 5 minutes, today.

Mr. MILLER of California, for 60 minutes, on November 6.

Mr. DURBIN, for 60 minutes, on November 6.

Mr. FRANK, for 60 minutes, on November 6.

Ms. DELAURO, for 60 minutes, on November 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SANTORUM) and to include extraneous matter:)

Mr. BROOMFIELD.

Mr. GILMAN.

Mr. GALLO.

Mr. JOHNSON of Texas.

Mr. BILIRAKIS.

Mr. CUNNINGHAM.

Mr. GOODLING.

Mr. HUNTER in three instances.

Mr. FIELDS.

Ms. ROS-LEHTINEN.

Mr. GALLEGLY.

Mr. GEKAS.

Mr. DREIER of California.

Mr. MCEWEN.

Mr. ZIMMER.

Mrs. BENTLEY.

(The following Members (at the request of Mr. BERMAN) and to include extraneous matter:)

Mr. ROEMER.

Mr. ANDREWS of Texas.

Mr. TRAFICANT in five instances.
Mr. MURTHA.
Mr. EDWARDS of California.
Mr. LANTOS.
Mr. DARDEN in two instances.
Ms. KAPTUR.
Mr. RUSSO.
Mr. RANGEL.
Mr. LIPINSKI.
Mr. JACOBS.
Mr. VISCLOSKY.
Ms. PELOSI.
Mr. GUARINI.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1350. An act to formulate a plan for the management of natural and cultural resources on the Zuni Indian reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1467. An act to designate the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr. United States Courthouse"; to the Committee on Public Works and Transportation.

S. 1530. An act to authorize the integration of employment, training, and related services provided by Indian tribal governments; to the Committee on Interior and Insular Affairs.

S. 1889. An act to designate the United States Courthouse located at 111 South Wolcott in Casper, Wyoming, as the "Ewing T. Kerr United States Courthouse"; to the Committee on Public Works and Transportation.

S. 1891. An act to permit the Secretary of Health and Human Services to waive certain recovery requirements with respect to the construction or remodeling of facilities, and for other purposes; to the Committee on Energy and Commerce.

□ 1900

ADJOURNMENT

Mr. ROHRABACHER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 8 minutes p.m.), the House adjourned until tomorrow, Friday, November 1, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2280. A communication from the President of the United States, transmitting a report on Possible Effects of a Strategic Arms Reduction Agreement on the Trident Program, pursuant to Public Law 101-189, section 1001(a) (103 Stat. 1539); to the Committee on Armed Services.

2281. A communication from the President of the United States, transmitting a report entitled, "Verification of Nuclear Warhead Dismantlement and Special Nuclear Material Controls," pursuant to section 3151 of the National Defense Authorization Act for fiscal year 1991; to the Committee on Armed Services.

2282. A letter from the Assistant Secretary for Indian Affairs, Department of the Interior, transmitting recommendations for amendments to Federal laws relating to native Americans, pursuant to Public Law 101-477, section 106(b) (104 Stat. 1156); to the Committee on Education and Labor.

2283. A letter from the Inspector General, Department of Defense, transmitting copies of the Army Audit Agency reports (Report Numbers NR 92-420 and NR 92-421) on its review of Superfund financial transactions for fiscal year 1990, pursuant to 31 U.S.C. 7501 note; to the Committee on Energy and Commerce.

2284. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 92-05), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2285. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 92-06), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2286. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Japan for defense articles and services (Transmittal No. 92-03), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2287. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of William Edwin Ryerson, of Virginia, to be Ambassador to the Republic of Albania, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2288. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report required by section 701(b)(2)(f) of Public Law 100-204; to the Committee on Foreign Affairs.

2289. A letter from the Comptroller General of the United States, transmitting the results of an audit of the financial statements of the Resolution Trust Corporation for the year ended December 31, 1990; jointly, to the Committees on Banking, Finance and Urban Affairs and Government Operations.

2290. A letter from the Executive Director, Resolution Trust Corporation, transmitting the RTC's Status Report for September 1991 (The 1988-89 FSLIC Assistance Agreements); jointly, to the Committees on Banking, Finance and Urban Affairs and Appropriations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RUSSO (for himself, Mr. GUARINI, Ms. PELOSI, and Mr. MILLER of California):

H.R. 3680. A bill to modify the tax and budget priorities of the United States, and for other purposes; jointly, to the Committees on Ways and Means, Government Operations, Science, Space, and Technology, Post Office and Civil Service, Appropriations, Small Business, Banking, Finance and Urban Affairs, Education and Labor, Agriculture, Armed Services, and Energy and Commerce.

By Mr. WYDEN (for himself, Mr. RIDGE, Mr. GEPHARDT, Mr. THOMAS of California, Mr. SAWYER, Mr. CHANDLER, Mr. MCNULTY, Mr. FAZIO, Mr. HOYER, Mr. MARKEY, Mr. ECKART, Mr. FEIGHAN, Mr. HEFNER, Mr. KOSTMAYER, Mr. GONZALEZ, Mr. JEFFERSON, Mr. LAGOMARSINO, Ms. NORTON, Mr. MCMILLEN of Maryland, Mr. MCDADE, Mr. PAYNE of Virginia, Mr. POSHARD, Mr. RAY, Mr. MRAZEK, Mr. TORRICELLI, Mr. NEAL of Massachusetts, Mr. MURPHY, Mr. ORTIZ, Mr. FOGLIETTA, Mrs. BOXER, Mr. VENTO, Mr. CLEMENT, Mr. DE LUGO, Mr. ESPY, Mr. STAGGERS, Mr. SABO, Mr. SCHUMER, Mr. TORRES, Mr. SCHEUER, Mr. EMERSON, Mr. COOPER, Mr. BORSKI, Mr. CONYERS, Mr. SWETT, Mr. DOWNEY, Mrs. LLOYD, Mr. KOLTER, Mr. HOCHBRUECKNER, Mrs. BENTLEY, Mr. HYDE, Mr. OWENS of Utah, Mr. APPLEGATE, Mr. WASHINGTON, and Mr. RANGEL):

H.R. 3681. A bill to amend title 5, United States Code, to make election day a legal public holiday, with such holiday to be known as "Democracy Day"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS:

H.R. 3682. A bill to amend the Internal Revenue Code of 1986 to provide a 3-year extension of the low-income housing credit, and for other purposes; to the Committee on Ways and Means.

H.R. 3683. A bill to establish an Assistant Secretary for Administration of the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

H.R. 3684. A bill to develop Federal Government performance standards and goals plans, and for other purposes; jointly, to the Committees on Government Operations and Rules.

H.R. 3685. A bill to establish the Office of Management and the Office of the Budget; to the Committee on Government Operations.

By Mr. COBLE:

H.R. 3686. A bill to amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina; to the Committee on the Judiciary.

By Mr. DREIER of California:

H.R. 3687. A bill to limit the provision of assistance to the Soviet Union under the Agricultural Trade Development and Assistance Act of 1954; to the Committee on Foreign Affairs.

By Mr. GIBBONS:

H.R. 3688. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. JOHNSTON of Florida (for himself and Mrs. BOXER):

H.R. 3689. A bill to amend the Social Security Act to provide for universal access to health benefits through a federally financed insurance program administered by States, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. MURTHA:

H.R. 3690. A bill to amend title III of the act of March 3, 1933, commonly known as the

Buy American Act, to require Federal agencies to increase domestic procurement in times of economic recession, and for other purposes; to the Committee on Government Operations.

By Mr. PERKINS:

H.R. 3691. A bill directing the Secretary of the Army to develop and implement a plan for modifying the channel bypass element of the Levisa Fork, KY, for the purpose of water quality improvement in and restoration of Pikeville Lake, KY; to the Committee on Public Works and Transportation.

By Mr. SKEEN (for himself, Mr. STALLINGS, Mr. SCHIFF, Mr. YOUNG of Alaska, Mr. DICKINSON, Mr. RHODES, and Mr. KYL):

H.R. 3692. A bill to withdraw certain public lands and to otherwise provide for the operation of the Waste Isolation Pilot Plant in Eddy County, NM, and for other purposes; jointly, to the Committees on Armed Services and Interior and Insular Affairs.

By Mr. STALLINGS (for himself and Mr. LAROCCO):

H.R. 3693. A bill to adjust the boundaries of the Targhee National Forest, to authorize a land exchange involving the Kaniksu National Forest, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. STUDDS (for himself, Mr. JONES of North Carolina, Mr. HERTEL, and Mr. DAVIS):

H.R. 3694. A bill to establish the Foundation for Ocean and Coastal Conservation in the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ZIMMER:

H.R. 3695. A bill to direct the Secretary of the Interior to conduct a study concerning the designation of the Morris and Delaware and Raritan Navigation Canals in the State of New Jersey as national heritage corridors; to the Committee on Interior and Insular Affairs.

By Mr. HERTEL (for himself and Mr. FASCELL):

H. Con. Res. 230. Concurrent resolution emphasizing the vast extent of environmental damage in the Persian Gulf region and urging expeditious steps by the United Nations to set aside funds to redress environmental and public health losses; to the Committee on Foreign Affairs.

By Mr. ROSTENKOWSKI:

H. Res. 267. Resolution returning to the Senate the bill S. 320; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 127: Mr. ANDREWS of New Jersey, Mr. SANGMEISTER, Mr. DELAY, Mr. YATES, and Mr. LEHMAN of California.

H.R. 261: Mr. SYNAR, Mr. YOUNG of Florida, Mr. POSHARD, Mr. GORDON, Mr. FALEOMAVAEGA, Mr. KOLTER, Mr. DOWNEY, and Mr. MORAN.

H.R. 312: Mr. MACHTLEY.

H.R. 430: Mr. MCCOLLUM and Mr. GIBBONS.

H.R. 608: Mr. BUSTAMANTE and Mr. WEBER.

H.R. 609: Mr. BORSKI.

H.R. 786: Mr. MOAKLEY and Ms. SLAUGHTER of New York.

H.R. 911: Mr. KOLBE, Mr. MCDADE, Mr. LEWIS of California, and Mr. OLVER.

H.R. 1063: Mr. BROWN, Mr. ANDREWS of Maine, Mr. CONYERS, Mr. MCCLOSKEY, and Mr. FROST.

H.R. 1240: Ms. NORTON, Mr. LAFALCE, and Mr. DWYER of New Jersey.

H.R. 1270: Mr. LIGHTFOOT, Mrs. LLOYD, Mr. PAYNE of Virginia, Mr. CRAMER, and Mrs. BYRON.

H.R. 1300: Mr. VENTO.

H.R. 1335: Mr. FISH and Mr. ACKERMAN.

H.R. 1389: Mr. SMITH of Florida.

H.R. 1476: Mr. PASTOR.

H.R. 1495: Mr. SLATTERY and Mr. MINETA.

H.R. 1522: Mr. ESPY, Ms. NORTON, Mrs. COLLINS of Illinois, Mr. MINETA, Mr. JOHNSTON of Florida, and Ms. PELOSI.

H.R. 1531: Mr. TORRES, Mr. CHANDLER, and Mr. JONES of Georgia.

H.R. 1546: Mr. CONDIT and Mr. DARDEN.

H.R. 1547: Mr. DARDEN.

H.R. 1633: Mr. JONES of North Carolina, Mr. STALLINGS, and Mr. SHAYS.

H.R. 1800: Mr. DREIER of California.

H.R. 2083: Mr. SCHEUER and Mr. SERRANO.

H.R. 2215: Mr. CLAY, Mr. FISH, Mr. JONES of Georgia, and Mr. WALSH.

H.R. 2257: Mr. GINGRICH.

H.R. 2326: Mr. JOHNSON of South Dakota.

H.R. 2363: Mr. LAGOMARSINO, Mr. MILLER of Washington, Mr. ANDREWS of Texas, Mr. PETERSON of Florida, and Mr. FEIGHAN.

H.R. 2415: Ms. NORTON.

H.R. 2632: Mr. SHAYS, Mr. JEFFERSON, Mr. KOSTMAYER, and Mr. LEVINE of California.

H.R. 2693: Mr. GEREN of Texas and Mr. PACKARD.

H.R. 2721: Mr. MRAZEK.

H.R. 2788: Mr. FIELDS and Mr. CRANE.

H.R. 2840: Ms. NORTON and Mr. LEVIN of Michigan.

H.R. 2862: Mr. MILLER of Washington.

H.R. 2912: Ms. NORTON, Mr. FISH, and Mr. EVANS.

H.R. 2943: Mr. FISH.

H.R. 2966: Mr. RAY, Mr. MAVROULES, Mr. DWYER of New Jersey, Mr. HATCHER, Mr. KLECZKA, and Mr. GUNDERSON.

H.R. 3070: Mr. EDWARDS of Texas, Mr. CARPER, Mr. CAMP, and Mr. VENTO.

H.R. 3084: Mr. ARMEY, Mr. DICKINSON, and Mr. LAGOMARSINO.

H.R. 3098: Mr. MORAN.

H.R. 3164: Mr. KLECZKA, Mr. PETERSON of Florida, Mr. RAHALL, Mr. ENGLISH, and Mr. VALENTINE.

H.R. 3278: Mr. MACHTLEY and Mr. ROE.

H.R. 3286: Mr. ECKART.

H.R. 3344: Mr. LAFALCE.

H.R. 3361: Mrs. JOHNSON of Connecticut.

H.R. 3373: Mr. DOOLEY, Mr. OWENS of Utah, Mr. MARTINEZ, Mr. WOLF, Ms. KAPTUR, Mr. ZELIFF, Mr. RIGGS, and Mrs. JOHNSON of Connecticut.

H.R. 3376: Mr. DANNEMEYER.

H.R. 3429: Mr. FALEOMAVAEGA, Mr. JOHNSTON of Florida, Mr. DWYER of New Jersey, and Mr. DEFAZIO.

H.R. 3443: Mr. SANTORUM.

H.R. 3487: Mr. GINGRICH, Mr. LEWIS of California, Mr. IRELAND, Mr. BAKER, Mr. STEARNS, Mr. ZELIFF, Mr. MACHTLEY, Mr. WYDEN, Mr. BOEHNER, Mr. RAMSTAD, Mr. LIVINGSTON, Mr. REGULA, Mr. HENRY, Ms. SNOWE, Mr. CAMP, Mrs. JOHNSON of Connecticut, Mr. THOMAS of Wyoming, and Mr. BURTON of Indiana.

H.R. 3504: Mr. HORTON, Mr. PETERSON of Florida, Mr. ROGERS, and Mr. JEFFERSON.

H.R. 3510: Mr. SMITH of New Jersey, Mrs. ROUKEMA, and Mr. DWYER of New Jersey.

H.R. 3511: Mr. OWENS of Utah, Mr. REED, Mr. OLVER, Ms. KAPTUR, Mr. ANDREWS of New Jersey, Mr. STALLINGS, Mr. SLATTERY, Mr. KOPETSKI, Mr. PALLONE, Mr. ATKINS, Mr. STARK, Mr. JOHNSON of South Dakota, Mr. MOLLOHAN, Mr. ESPY, Mr. HOAGLAND, and Ms. NORTON.

H.R. 3516: Mrs. VUCANOVICH.

H.R. 3553: Mrs. COLLINS of Michigan.

H.R. 3595: Mr. SISISKY, Mr. WHEAT, Mr. DELLUMS, Mr. PAYNE of New Jersey, Mr. ALEXANDER, Mr. SABO, and Mr. PORTER.

H.R. 3627: Mr. MAVROULES, Mr. HORTON, Mr. GINGRICH, Mr. MONTGOMERY, Mr. DORNAN of California, Mr. RITTER, Mr. RHODES, Mr. LAGOMARSINO, Ms. KAPTUR, and Mr. LANCASTER.

H.J. Res. 152: Mr. VANDER JAGT.

H.J. Res. 177: Mr. KLECZKA, Mr. FIELDS, Mr. LEVINE of California, Mr. WILSON, and Mr. MYERS of Indiana.

H.J. Res. 312: Mr. MILLER of Ohio, Mr. NEAL of Massachusetts, Mr. JOHNSTON of Florida, Mr. VALENTINE, Mr. COLEMAN of Texas, Mr. SHAW, Mr. MOODY, Mr. BREWSTER, Mr. FLAKE, Mr. MILLER of Washington, Mr. RAY, Mr. BERMAN, Mr. MOAKLEY, Mr. SOLARZ, Mr. BARTON of Texas, Mr. THOMAS of California, Mr. BUSTAMANTE, Mr. STUMP, Mrs. MEYERS of Kansas, Mr. CHANDLER, Mrs. BENTLEY, Mr. EVANS, Mr. GINGRICH, Mr. SKELTON, Mr. JONTZ, Mr. LEWIS of California, and Mrs. PATTERSON.

H.J. Res. 318: Mr. MATSUI, Mr. MINETA, Mr. PAXON, Mr. BROWDER, Mr. DE LUGO, Mr. MCGRATH, Mr. KLECZKA, Mr. PASTOR, Mr. ACKERMAN, Mr. MANTON, Mr. SMITH of New Jersey, Mr. FISH, and Mr. DE LA GARZA.

H.J. Res. 343: Mr. ATKINS, Mr. CONYERS, Mr. DWYER of New Jersey, Mr. FASCELL, Mr. HARRIS, Mr. HEFNER, Mr. HUTTO, Mr. IRELAND, Mr. KASICH, Mr. KILDEE, Mr. LEWIS of Georgia, Mr. NOWAK, Mr. OWENS of Utah, Mr. PARKER, Ms. PELOSI, Mr. PRICE, Mr. SCHEUER, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. STUDDS, Mr. TORRICELLI, Mr. VENTO, and Mr. YATRON.

H.J. Res. 361: Mr. LOWERY of California, Mr. OWENS of Utah, Mr. KILDEE, Mr. NEAL of Massachusetts, Mr. OBERSTAR, Mr. SMITH of Texas, Mr. REGULA, Mr. DEFAZIO, Mr. RAMSTAD, Mr. BILBRAY, Mr. LIPINSKI, Mr. GUARINI, Mr. CLEMENT, Mr. DICKS, Mr. MARTINEZ, Mr. MCGRATH, Mr. VOLKMER, and Mr. EMERSON.

H. Con. Res. 156: Mr. FISH, Mr. FEIGHAN, Mr. SWETT, Mr. BERMAN, Mr. SMITH of New Jersey, Mr. GUARINI, and Mr. VENTO.

H. Con. Res. 192: Mr. SHAYS, Mr. SWETT, Mr. DWYER of New Jersey, Mr. AUCOIN, Mr. NAGLE, Mr. PRICE, Mr. VALENTINE, Mr. CAMPBELL of Colorado, Mr. BUNNING, Mr. BROWN, Mr. BREWSTER, Mr. DICKS, Ms. NORTON, Mr. OLVER, Mr. COOPER, Mr. MILLER of California, Mr. GEJDENSON, Mr. DURBIN, and Mr. COSTELLO.

H. Con. Res. 211: Ms. SLAUGHTER of New York and Mr. MINETA.

H. Con. Res. 218: Mr. HOLLOWAY and Mr. BURTON of Indiana.

H. Con. Res. 226: Mr. SHAYS, Mr. MAVROULES, Ms. ROS-LEHTINEN, Mr. GEJDENSON, Mr. LEHMAN of Florida, Mr. BACCHUS, Mr. ACKERMAN, Mr. MRAZEK, Mr. HORTON, Mr. SIKORSKI, Mr. PAYNE of Virginia, Mr. DWYER of New Jersey, Mr. TORRES, Mr. SCHIFF, Mr. TOWNS, Mr. RAY, and Mr. PALLONE.

H. Con. Res. 227: Mr. SANGMEISTER and Mr. MILLER of California.

H. Res. 41: Mr. SHAYS.

H. Res. 234: Mr. SANGMEISTER.

H. Res. 257: Mr. BREWSTER, Mr. DERRICK, Mr. BOEHNER, Mr. VALENTINE, and Mr. LAGOMARSINO.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of Oct. 24, 1991]

H.R. 1330: Mr. DERRICK.

SENATE—*Thursday, October 31, 1991*

(Legislative day of Tuesday, October 29, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. As we reverence the supreme judge and lawgiver of the world, the Senate will be led in prayer by the chaplain, the Reverend Dr. Richard C. Halverson. Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of truth and righteousness, make us wise to discern the divine diagnosis of our condition of economic and cultural decomposition as symptomatic of spiritual and moral bankruptcy. In the word of the prophet Jeremiah, "* * * my people have changed their glory for that which doth not profit. * * * For my people have committed two evils, they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water."—Jeremiah 2:11,13.

Father in Heaven, give us insight to understand that secularism is godlessness which creates a spiritual vacuum, sucking life out of any system, leaving it a desert—an arid wasteland. We don't need religion, Lord, we need faith in the God of our fathers—the faith that inspired our unprecedented political system with its guaranteed rights endowed by a Creator God and sustained by a living faith. Revive in us that living faith which motivated and guided our Founders. Restore to us their trust in a living, benevolent God, that our personal and national destiny may conform to Your perfect will for us.

In Jesus' name who gave His life for us. Amen.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

There will now be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock with Senators permitted to speak therein. The Senator from Oklahoma [Mr. BOREN] is permitted to speak for up to 15 minutes. The Senator from Minnesota [Mr. DURENBERGER] is permitted to speak for up to 10 minutes.

COMMENDING THE WORLD CHAMPION MINNESOTA TWINS

Mr. DURENBERGER. Mr. President, let me begin by saying that I have a resolution that will not provoke a filibuster, and before the Senate gets down to other business this morning we are pausing to recognize a sterling example of excellence. In about an hour from now, this city will receive the world champions of baseball, the Minnesota Twins, and we can always benefit from an example of guts and skill under pressure around this place.

So much has been said about the series, so much has been said about its drama and its courage and its triumph, the triumph of the underdog against practically all odds. I am reminded of seeing last weekend a church banner in downtown Minneapolis a few blocks from the Metrodome which quoted the 30th verse of the 13th chapter of Luke's Gospel to the effect that the last shall be first. It was sort of a "do not take any sides even in your hometown" salute to two wonderful, very special organizations of young men engaged, in this case, in an athletic endeavor.

My colleague, Senator WELLSTONE, and I want to express our admiration for those people on behalf of the Senate in the resolution which I now send to the desk and ask for its immediate consideration. I ask the clerk to read the resolution.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

S. RES. 212

Whereas baseball fans around the world have been treated to the most exciting and well-played World Series in history;

Whereas this was the first World Series ever pitting two last-place finishers from the previous year;

Whereas both teams received tremendous support from their cities and from fans around the country and the world;

Whereas the Atlanta Braves showed amazing skill and grit under pressure, both in the series and throughout the season;

Whereas the Minnesota Twins put on a remarkable display of total team baseball, combining outstanding pitching, great defense and timely hitting;

Whereas Twins mainstays Kirby Puckett and Jack Morris performed like the superstars they are and were supported by a succession of different heroes every night;

Whereas the Twins are one of the most respected organizations in professional sports through the good work of owner Carl Pohlad, General Manager Andy McPhail and Manager Tom Kelly; and

Whereas the entire series was conducted with the highest level of athletic skill, personal character and sportsmanship: Now, therefore, be it

Resolved, by the Senate of the United States—

(a) that the Atlanta Braves and the Minnesota Twins be commended for their outstanding play and the credit they have brought to "our national pastime"; and

(b) that the Minnesota Twins are congratulated for being the 1991 World Champions of baseball.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution? The Chair hears no objection.

The Senator from Minnesota [Mr. DURENBERGER].

Mr. DURENBERGER. Mr. President, before the Chair puts the question before the Senate, I would be pleased to yield to my colleague from Minnesota for his comments on this subject, if I may.

The PRESIDENT pro tempore. The Senator from Minnesota, Mr. WELLSTONE.

Mr. WELLSTONE. I thank the Chair. I thank the senior Senator from Minnesota.

This says it all, Mr. President, "One for The History Books," in the Star Tribune.

I think that the World Series was a metaphor for hope, the two last-place teams playing against one another for the championship. I, too, wish to say to the Atlanta Braves that what I saw were great athletes, what I saw was just tremendous competition. What I saw was excellence on the part of both of these teams. Of course, as a Senator from Minnesota, I am thrilled with the performance of the Minnesota Twins.

Mr. President, I am trying to figure out how not to be Mr. Politician here. I am trying to say something fairly serious to go along with this moment of celebration. So I guess the way I would conclude my remarks is to emphasize that it was wonderful to see such good feeling around the country. I think that was really important.

There was a guy who was sitting right behind me and throughout the whole game, I think it was game 6, 11 innings. He kept saying things like," good hustle, don't swing for the fences, make contact with the ball, way to go, keep determined—nonstop.

And after the game was over I turned to him and I said "You know what? I think you won the game." My point is people were involved. I think the World Series captured the imagination of the people all across the country. And I think it really was a very great event.

Mr. DURENBERGER. Mr. President, I send to the desk a technical amendment to one of the "whereas" provisions of my resolution which adds the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

name of my very good friend and former associate who is now the President of the Minnesota Twins, Jerry Bell, in the seventh "whereas" of my resolution, and ask that the resolution might be amended in that respect.

The PRESIDENT pro tempore. Is the amendment an amendment to the preamble?

Mr. DURENBERGER. Yes, it is, Mr. President.

The PRESIDENT pro tempore. The amendment would await the adoption of the resolution.

Mr. DURENBERGER. Mr. President, in conclusion let me express my appreciation to the fanship of our colleagues from Georgia. Both Senator NUNN and Senator FOWLER have been the best of baseball fans. But WYCHE FOWLER, if anyone saw him here on either Monday or Tuesday morning of this week saw what we saw in each of seven games, a terrific baseball fan, a person who is tremendously committed to it. I hope that my colleagues from Georgia can support this resolution as well.

There is one young man on that team who is from Edina, MN, sort of the captain of the team, the leader of that team, a person who used to be in the Twins' organization and he is now with the Atlanta Braves, their catcher, Gregg Olson, who certainly ought to get congratulated as well.

I have an article on Gregg Olson from the New York Times that I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Oct. 26, 1991]

BRAVES' OLSON IS HAVING THE BIG TIME OF HIS LIFE

(By Dave Anderson)

The World Series seldom eludes the gifted players. Ernie Banks and Rod Carew never got there, but the gifted players are usually on baseball's center stage sooner or later. It's something they expect. Just as they never expect to be told someday that they can't hit or pitch anymore.

But the career minor leaguer only dreams about what the World Series must be like.

For eight struggling seasons, Greg Olson dreamed. After six years in the Mets' system, he was signed in November 1988 by his hometown Minnesota Twins and spent the next season with Portland of the Pacific Coast League. He had returned home in September when the Twins needed a catcher. They promoted another minor leaguer.

"Here I am 20 minutes from the Metrodome," he told his parents at the time, "and they bring up somebody else."

The Twins didn't want him after the Mets had to liberate him. Then 29, he gave himself one more year in the minors. Upon joining the Atlanta Braves in 1990, he got his break when one catcher refused to report to the minors and another suddenly retired. And at 31, as the World Series resumes tonight at the Metrodome, he is the Braves' catcher.

"As a kid and as a minor leaguer you always dream about being in a World Series," he said. "But even in my dreams, I never would have imagined catching every game in the World Series like I have. I'm very confident now, not cocky but confident, of going to the Metrodome and winning."

With a victory in either tonight's sixth game or tomorrow night's seventh game, the Braves would complete the most bizarre scenario in World Series history. They would be baseball's best after having been its worst, finishing last in the National League West in 1990 with a 65–97 record.

In enjoying his own scenario, Greg Olson is hitting .333, calling the pitches, blocking curveballs in the dirt, even stealing a base. But the World Series is much more than just baseball. For him, it's as if Crash Davis, the career minor league catcher played by Kevin Costner in "Bull Durham," had suddenly stepped onto baseball's big stage.

Olson has been handed a Minneapolis tailor's business card and told to stop by for a free suit.

When he mentioned missing his waterbed in his Edina, Minn., home, an Atlanta dealer delivered a waterbed to his apartment there. Almost anywhere he goes in Atlanta, he's recognized.

"When I went to pay at a doughnut shop," he said, "the counterman waved me off."

In his World Series diary for the Atlanta Constitution, he mentioned seeing himself on the cover of this week's Sports Illustrated, standing on his head but clutching the ball in his glove after having tagged Dan Gladden in a spectacular first-game collision.

"My wife always keeps me humble," he told his ghostwriter, Jack Wilkinson, "but Lisa even admitted I've made it to the big time now."

Then there's the money. If the Braves win, each player's share will be $110,174. That's tip money for some millionaire free agents, but for Greg Olson, whose salary is $165,000, it's important money for him, his wife and their little son, Ryan.

He'll make more money next year, maybe $400,000, but for him it's more important to have proved he can play. All those years in the minors he had to wonder. Now he knows. So do the Twins.

Like most Minnesota kids, he grew up a Twins fan. Years ago his parents, Bob and Barb, took photos at a Twins Camera Day of little Greg with Rod Carew, Larry Hisle and Frank Quilici.

The Twins decided not to keep him in 1989, but as disappointing as it was at the time, he insists it turned out for the best. If the Twins had kept him, he's probably be Brian Harper's backup. But under his Braves uniform shirt, he wears a T-shirt with a caricature of Kirby Puckett.

"Kirby gave it to me the spring training when I was with the Twins," he said. "It's my favorite 'hit' shirt."

When the Twins won the sixth and seventh games of the 1987 World Series at the Metrodome, Olson was there.

"Bad seats," he said. "There was so much noise, you had to cup your hand to talk to the person next to you."

In tonight's noise, he'll be catching Steve Avery, trying to hit Scott Erickson and having the time of his life.

"I get butterflies but I'm not nervous," he said. "The difference is, I associate butterflies with waiting for the first pitch. I associate nervous with pressure."

And for Greg Olson, pressure isn't being in the World Series. For him, pressure is all those years it took for him to get there.

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Republican leader is recognized.

Mr. DOLE. I want to congratulate my colleagues from Minnesota on a great series. I think I watched every game. Nobody knew for certain until the last 2 minutes who was going to win. Two great teams. Certainly a well-deserved recognition by the Senators from Minnesota this morning.

Mr. DURENBERGER. Mr. President, I urge adoption of the resolution.

The PRESIDENT pro tempore. The question is on the adoption of the resolution.

The resolution (S. Res. 212) was agreed to.

The PRESIDENT pro tempore. Does the Senator from Minnesota have an amendment?

Mr. DURENBERGER. Yes, Mr. President, I have an amendment in the seventh "whereas" paragraph.

The PRESIDENT pro tempore. Would the Senator send his amendment to the desk?

AMENDMENT NO. 1298

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 1298.

Amendment to the preamble:

Amend the seventh paragraph to read as follows:

Whereas the Twins are one of the most respected organizations in professional sports through the good work of Owner Carl Pohlad, General Manager Andy McPhail, President Jerry Bell, and Manager Tom Kelly; and

The PRESIDENT pro tempore. Is there objection to the adoption of the amendment to the preamble? The Chair hears no objection.

The amendment (No. 1298) was agreed to.

The preamble, as amended, was agreed to. The resolution, with its preamble, as amended, reads as follows:

S. RES. 212

Whereas baseball fans around the world have been treated to the most exciting and well-played World Series in history;

Whereas this was the first World Series ever pitting two last-place finishers from the previous year;

Whereas both teams received tremendous support from their cities and from fans around the country and the world;

Whereas the Atlanta Braves showed amazing skill and grit under pressure, both in the series and throughout the season;

Whereas the Minnesota Twins put on a remarkable display of total team baseball, combining outstanding pitching, great defense and timely hitting;

Whereas Twins mainstays Kirby Puckett and Jack Morris performed like the superstars they are and were supported by a succession of different heroes every night;

Whereas the Twins are one of the most respected organizations in professional sports through the good work of Owner Carl Pohlad, General Manager Andy McPhail, President Jerry Bell, and Manager Tom Kelly; and

Whereas the entire series was conducted with the highest level of athletic skill, personal character and sportsmanship; Now therefore, be it

Resolved, by the Senate of the United States—

(a) That the Atlanta Braves and the Minnesota Twins be commended for their outstanding play and the credit they have brought to "our national pastime"; and

(b) That the Minnesota Twins are congratulated for being the 1991 World Champions of baseball.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the resolution, as amended, was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CIVIL RIGHTS BILL

Mr. DOLE. Mr. President, I want to say we finished the civil rights bill last night—which had been very contentious for a long, long time—but by a vote of 93 to 5, which I think is an indication of how the Senate feels about the very serious issues contained in that civil rights measure.

So I think now we should move to see if we cannot find some resolution of unemployment benefits. This may be even more important to many than the passage of the civil rights bill because there are no monetary benefits in the civil rights bill as such.

UNEMPLOYMENT BENEFITS

Mr. DOLE. Mr. President, it seems to me that now it is incumbent upon all of us to see if we cannot sit down and reach some agreement very quickly, hopefully before the week is out, on extension of unemployment benefits. I would say this: Though I have not talked directly with the President, it has been my view from the start that if we can find a program that is paid for and maybe a few other restrictions, then I believe the President will certainly be pleased to sign it. He has indicated that to me a number of times.

We have had an alternative proposal, the so-called Dole proposal, with 6 to 10 weeks of benefits that was paid for. And the important thing is making certain it is paid for—no smoke and mirrors—that it is paid for.

I know the chairman of the Senate Finance Committee, Senator BENTSEN, I know the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, are looking at options and how to pay for a package.

I am not certain how extensive the package would be. I am only suggesting at this time that it seems to me that ought to be the next challenge that we take up on a bipartisan basis, get it done quickly, get benefits, start benefits flowing to the thousands and thousands of unemployed Americans all across the land.

Mr. President, I reserve the remainder of my leader time.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INTERMODAL SURFACE TRANSPORTATION INFRASTRUCTURE ACT OF 1991

The PRESIDENT pro tempore. The Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. Thank you Mr. President.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2950, the highway bill; that all after the enacting clause be stricken and the text of S. 1204, as amended, be substituted in lieu thereof; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; that the Senate insist upon its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDENT pro tempore. Is there objection to the request?

There is no objection.

Without objection, it is so ordered.

So the bill (H.R. 2950), as amended, was passed as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Efficiency Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Secretary defined.

TITLE I

PART A—GENERAL PROVISIONS

Sec. 102. Declaration of policy.
Sec. 103. Authorization of appropriations.
Sec. 104. Obligation ceiling.
Sec. 105. Unobligated balances.
Sec. 106. Surface Transportation Program.
Sec. 107. Congestion Mitigation and Air Quality Improvement Program.
Sec. 108. Bridge Program.
Sec. 109. Interstate Maintenance Program.
Sec. 110. Interstate Construction Program.
Sec. 111. Federal Lands Highways Program.
Sec. 112. Toll facilities.
Sec. 113. Metropolitan planning.
Sec. 114. Statewide planning.
Sec. 115. Research and data collection.
Sec. 116. Magnetic levitation transportation.
Sec. 117. Access to rights-of-way.
Sec. 118. Report on reimbursement for segments constructed without Federal assistance.
Sec. 119. Disadvantaged business enterprises.
Sec. 120. Availability of funds.
Sec. 121. Program efficiencies.
Sec. 122. Use of safety belts and motorcycle helmets.
Sec. 123. Credit for non-Federal share.
Sec. 124. Acquisition of rights-of-way.
Sec. 125. Transportation in parklands.
Sec. 126. Traffic control standards.
Sec. 127. Use of rubber-modified asphalt pavement.
Sec. 128. Rights-of-Way Revolving Fund.
Sec. 129. Scenic and Historic Highways.
Sec. 130. National Highway System.
Sec. 131. Definitions.
Sec. 132. Functional reclassification.
Sec. 133. Repeal of certain sections of title 23 United States Code.
Sec. 134. Conforming and technical amendments.
Sec. 135. Recodification.
Sec. 136. Timber Bridge and Timber Research Program.
Sec. 137. Gross vehicle weight restriction.
Sec. 138. Vehicle length restriction.
Sec. 138A. National maximum speed limit.
Sec. 139. Road sealing on reservation roads.
Sec. 140. Emergency relief advances.
Sec. 140A. Highway construction training.
Sec. 140B. Erosion control guidelines.
Sec. 140C. International highway transportation outreach program.
Sec. 140D. Education and training program.
Sec. 140E. National Highway Institute.
Sec. 140F. Use of zebra mussels in infrastructure.
Sec. 140G. Infrastructure Investment Commission.
Sec. 140H. Regulatory interpretation.
Sec. 140I. Clear gasoline requirement.
Sec. 140J. National defense highways.
Sec. 140K. Allocation formula study.
Sec. 140L. Storm water permit requirements.
Sec. 140M. Investigation and report.
Sec. 140N. Report on the use or oxygenated fuels in certain cities and metropolitan statistical areas.
Sec. 140O. Youth jobs highway beautification program.
Sec. 140P. Interstate transportation agreements and compacts.
Sec. 140Q. Substitute project.
Sec. 140R. Montana-Canada trade.
Sec. 140S. Level of effort apportionment bonuses.
Sec. 140T. National policy for infrastructure reuse.
Sec. 140U. Declaration of nonnavigability of portion of Hudson River, New York.
Sec. 140V. Sense of the Senate

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

Sec. 141. Short title.
Sec. 142. Creation of National Recreational Trails Trust Fund.
Sec. 143. National Recreational Trails Funding Program.
Sec. 144. National Recreational Trails Advisory Committee.

PART C—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

Sec. 151. Short title.
Sec. 152. Purpose and scope.
Sec. 153. Advisory Committee.
Sec. 154. Strategic plan, implementation, and report to Congress.
Sec. 155. Technical, planning, and project assistance.
Sec. 156. Applications of technology.
Sec. 157. Authorizations.
Sec. 158. Definitions.

PART D—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

Sec. 161. Relocation assistance regulations relating to the Rural Electrification Administration.

TITLE II—HIGHWAY SAFETY

PART A—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION

Sec. 201. Short title.

Sec. 202. Definitions.
Sec. 203. Authorization of appropriations.
Sec. 204. Intelligent vehicle-highway systems.
Sec. 205. Side impact protection for vehicles.
Sec. 206. Automobile crashworthiness data.
Sec. 207. Standards compliance.
Sec. 208. Investigation and penalty procedures.
Sec. 209. Multipurpose passenger vehicle safety.
Sec. 210. Rollover protection.
Sec. 211. Rear seatbelts.
Sec. 212. Impact resistance capability of bumpers.
Sec. 213. Child booster seats.
Sec. 214. Airbag requirements.
Sec. 215. State motor vehicle safety inspection programs.
Sec. 216. Recall of certain motor vehicles.
Sec. 217. Darkened windows.
Sec. 218. Grant program concerning use of seatbelts and child restraint systems.
Sec. 219. Methods of reducing head injuries.
Sec. 220. Pedestrian safety.
Sec. 221. Daytime running lights.
Sec. 222. Antilock brake systems.
Sec. 223. Heads-up displays.
Sec. 224. Safety belt design.
Sec. 225. Criteria for standards.
Sec. 226. Impaired driving enforcement.

PART B—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION

Sec. 231. Short title.
Sec. 232. Motor carrier safety assistance program.
Sec. 233. New formula for allocation of MCSAP funds.
Sec. 234. Violations of out-of-service orders.
Sec. 235. Intrastate compatibility.
Sec. 236. Enforement of blood alcohol concentration limits.
Sec. 237. FHWA positions.
Sec. 238. Drug free truck stops.
Sec. 239. Improved brake systems for commercial motor vehicles.
Sec. 240. Compliance review priority.
Sec. 241. Report on training of drivers.

PART C—TRANSPORTATION EMPLOYEE TESTING

Sec. 261. Short title.
Sec. 262. Findings.
Sec. 263. Testing to enhance aviation safety.
Sec. 264. Testing to enhance railroad safety.
Sec. 265. Testing to enhance motor carrier safety.
Sec. 266. Testing to enhance mass transportation safety.

PART D—GENERAL PROVISIONS

Sec. 271. Rural tourism development.
Sec. 272. Education and training program.
Sec. 273. Commercial drivers license waiver.
Sec. 274. Border crossing study.

TITLE III—FEDERAL TRANSIT ACT OF 1991

Sec. 301. Short title; table of contents.
Sec. 302. Change of agency name.
Sec. 303. Amendment to short title of the 1964 Act.
Sec. 304. Findings and purposes.
Sec. 305. Commute-to-work benefits.
Sec. 306. Capital grant or loan program.
Sec. 307. Capital grants; technical amendment to provide for early systems work contracts and full funding grant contracts.
Sec. 308. Section 3 program—Allocations.
Sec. 309. Section 3 program—Rail modernization formula.
Sec. 310. Section 3 program—Local share.
Sec. 311. Section 3—Grandfathered jurisdictions.
Sec. 312. Capital grants—Innovative techniques and practices.
Sec. 313. Capital grants—Elderly persons and persons with disabilities.
Sec. 314. Capital grants—Eligible activities.
Sec. 315. Criteria for new starts.
Sec. 316. Advance construction; technical amendment related to interest cost.
Sec. 317. Federal share for ADA and Clean Air Act compliance.
Sec. 318. Capital grants—Deletion of extraneous material.
Sec. 319. Comprehensive transportation strategies.
Sec. 320. Section 9 program—Allocations.
Sec. 321. Section 9 formula grant program—Discretionary transfer of apportionment.
Sec. 322. Section 9 program—Elimination of incentive tier.
Sec. 323. Section 9 program—Energy efficiency.
Sec. 324. Section 9 program—Applicability of safety provisions.
Sec. 325. Section 9 program—Certifications.
Sec. 326. Section 9 program—Program of projects.
Sec. 327. Ferry routes.
Sec. 328. Section 9 program—Continued assistance for commuter rail in southern Florida.
Sec. 329. Section 11—University transportation centers.
Sec. 330. Rulemaking.
Sec. 331. Section 12—Transfer of facilities and equipment.
Sec. 332. Special procurement.
Sec. 333. Section 16—Elderly persons and persons with disabilities.
Sec. 334. Meal delivery service to homebound persons.
Sec. 335. Section 18—Transfer of facilities and equipment.
Sec. 336. Section 18—Grants to offset Amtrak losses.
Sec. 337. Human resources program support.
Sec. 338. Authorizations.
Sec. 339. Report on safety conditions in mass transit.
Sec. 340. Section 23—Project management oversight.
Sec. 341. Section 26—Planning and research.
Sec. 342. Technical accounting provisions.
Sec. 343. GAO report on charter service regulations.
Sec. 344. GAO study on public transit needs.
Sec. 345. Use of population estimates.
Sec. 346. Section 9B—Technical amendment.
Sec. 347. Use of census data.

TITLE IV—PRIVATE PROPERTY RIGHTS

Sec. 401. Private Property Rights Act.

SEC. 3. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I

PART A—GENERAL PROVISIONS

SEC. 102. DECLARATION OF POLICY.

(a) Subsection 101(b) of title 23, United States Code, is amended to read as follows:

"(b) DECLARATION OF POLICY.—The National Systems of Interstate and Defense Highways is completed. The principal purpose of Federal highway assistance shall henceforth be to improve the efficiency of the existing surface transportation system.

"It is the policy of the United States to facilitate innovation and competition, energy efficiency, productivity and accountability in transportation modes through Federal and State initiative.

"It is the policy of the United States to increase productivity in the transportation sector of the economy through systematic attention to costs and benefits, pursuing the most efficient allocation of costs and the widest distribution of benefits.".

(b) Subsections 101(d) and 101(e) of title 23, United States Code, are hereby repealed.

(c) The Secretary shall distribute copies of the Declaration of Policy contained in this section to each employee of the Federal Highway Administration, and shall ensure that such Declaration of Policy is posted in all offices of the Federal Highway Administration.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(A) REPEAL OF FISCAL YEAR 1993 AUTHORIZATION FOR INTERSTATE CONSTRUCTION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by—

(1) inserting "and" after "1991";

(2) striking the coma after 1992" and inserting in lieu thereof a period; and

(3) striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993".

(b) AUTHORIZATIONS.—The following sums are authorized to be appropriated out of the Highway Account of the Highway Trust Fund:

(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program $7,330,000,000 for fiscal year 1992, $7,700,000,000 for fiscal year 1993, $8,260,000,000 for fiscal year 1994, $9,250,000,000 for fiscal year 1995, and $12,260,000,000 for fiscal year 1996.

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For Congestion Mitigation and Air Quality Improvement $1,000,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(3) BRIDGE PROGRAM.—For the Bridge Program $2,350,000,000 for fiscal year 1992, $2,440,000,000 for fiscal year 1993, $2,580,000,000 for fiscal year 1994, $2,820,000,000 for fiscal year 1995, and $3,230,000,000 for fiscal year 1996.

(4) INTERSTATE MAINTENANCE PROGRAM.—For resurfacing, restoring and rehabilitating the National System of Interstate and Defense Highways, $2,530,000,000 for fiscal year 1992, $2,620,000,000 for fiscal year 1993, $2,770,000,000 for fiscal year 1994, $3,020,000,000 for fiscal year 1995, and $3,250,000,000 for fiscal year 1996.

(5) INTERSTATE CONSTRUCTION PROGRAM.—For construction to complete the Interstate System, $1,800,000,000 for fiscal year 1993, 1994, 1995, and 1996: Provided, That section 102(c) of the Federal-Aid Highway Act of 1987, regarding minimum apportionment, is hereby repealed: And provided further, That such sums shall be obligated as if authorized by section 108(b) of the Federal-Aid Highway Act of 1956.

(6) INTERSTATE SUBSTITUTION PROGRAM.—For the Interstate Substitution Program for projects under highway or transit assistance programs $240,000,000 for each of fiscal years 1992, 1993, 1994, and 1995: Provided, That such sum shall be obligated as if authorized by section 103(e)(4)(G) of title 23, United States Code, for highway assistance programs.

(7) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) For Indian reservation roads $200,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(B) For public lands highways $200,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(C) For parkways and park highways $120,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(8) TERRITORIAL HIGHWAY PROGRAM.—For the Territorial Highway Program $15,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(9) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—For the National Magnetic Levitation Design Program $50,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, $125,000,000 for fiscal year 1994, $250,000,000 for fiscal year 1995, and $250,000,000 for fiscal year 1996.

(10) FEDERAL HIGHWAY ADMINISTRATION RESEARCH PROGRAMS.—For the purpose of carrying out research as authorized by section 307, the amount of $120,000,000 for each of fiscal years

1992, 1993, 1994, 1995, and 1996: Provided, That such amount shall be made available from within the amount of the deduction authorized pursuant to section 104(a) of title 23, United States Code.

(11) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—For carrying out the University Transportation Centers Program pursuant to the Urban Mass Transportation Act of 1964, as amended, $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(12) HIGHWAY USE TAX EVASION PROJECTS.—(A) For highway use tax evasion projects $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996: Provided, That these sums shall be available until expended and may be allocated to the Internal Revenue Service of States at the discretion of the Secretary: Provided further, That these funds shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff (only for purposes under this paragraph), supplement motor fuel tax examination and criminal investigation, develop automated data processing tolls, evaluate and implement registration and reporting requirements, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

(B) The Secretary shall report on October 1 and April 1 of each year to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the expenditure of all funds under this paragraph, including expenses for the hiring of additional staff by any Federal agency and any expenditures for outside consultants.

(13) SAFETY BELT AND MOTORCYCLE HELMET USE.—For the purpose of carrying out programs under section 153 of title 23, United States Code, $45,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

SEC. 104. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highway programs or State allocations made pursuant to section 143 shall not exceed—

(1) $15,480,000,000 for fiscal year 1992;

(2) $16,721,000,000 for fiscal year 1993;

(3) $18,726,000,000 for fiscal year 1994;

(4) $20,687,000,000 for fiscal year 1995; and

(5) $23,467,000,000 for fiscal year 1996:

Provided, That limitations under this section shall not apply to obligations for emergency relief pursuant to section 125 and obligations for minimum allocation pursuant to section 157.

(b) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 1992, 1993, 1994, 1995 and 1996, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year.

(c) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each fiscal year 1992, 1993, 1994, 1995, and 1996 no State shall obligate more than 35 per centum of the amount distributed to that State under subsection (b) for that fiscal year, and the total of all State obligations during the period shall not exceed 25 per centum of the total amount distributed to all States under subsection (b) for that fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent unintended lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State:

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995 and 1996, revise a distribution of funds made available under subsection (b) for that fiscal year if a State will not obligate the amount distributed to it during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during the fiscal year, first in accordance with paragraph (4) of this subsection and, to the extent further obligation authority is available after distribution of the maximum permitted under paragraph (4), then by distributing the remainder giving priority to those States having large unobligated balances of funds apportioned under section 104 and section 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highways program, and the National Magnetic Levitation Design Program.

(4)(A) Subject to subparagraph (B), a State which after August 1 and on or before September 30 of fiscal year 1992, 1993, 1994, 1995, or 1996, obligates the amount distributed to such State in such fiscal year under subsection (b) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 per centum of the aggregate amount of funds apportioned or allocated to such State—

(i) under sections 104 and 144; and

(ii) for highway assistance projects under section 103(e)(4), which are not obligated on the date such State completes obligation of the amount so distributed.

(B) LIMITATION.—During the period August 2 through September 30 of each of fiscal years 1992 through 1996, the aggregate amount which may be obligated by all States pursuant to subparagraph (A) shall not exceed 2.5 per centum of the aggregate amount of funds apportioned or allocated to all States—

(i) under sections 104 and 144, and

(ii) for highway assistance projects under section 103(e)(4), which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(C) LIMITATION ON APPLICABILITY.—

(i) Subparagraph (A) shall not apply in a fiscal year to any State which on or after August 1 of that fiscal year has the amount distributed to such State under subsection (b) for such fiscal year reduced under paragraph (d)(2).

(ii) This paragraph does not create obligation authority in addition to that provided by subsection (a), but concerns only redistribution of obligation authority.

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned for the primary, secondary and urban systems and the railway-highway crossing and hazard elimination programs may be obligated for the Surface Transportation Program as if they had been apportioned for that program.

SEC. 106. SURFACE TRANSPORTATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title 23, United States Code, is amended by adding the following new section:

"§133. Surface Transportation Program

"The Secretary shall establish a Surface Transportation Program in accordance with this section.

"(a) ELIGIBILITY.—Projects eligible under the Surface Transportation program shall include—

"(1) construction, reconstruction, rehabilitation, resurfacing, restoration, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit, painting of and application of calcium magnesium acetate on bridges and other elevated structures;

"(2) capital costs for mass transit, passenger rail (including high speed rail), and operating cost for passenger rail for States without Amtrak service as of the date of enactment of this Act, publicly owned intra- or inter-city bus terminals and facilities, and magnetic levitation systems, including expenditures on rights of way and associated facilities, and expenses for contracted passenger rail or magnetic levitation service provided by public or private carriers;

"(3) carpool projects and fringe and corridor parking facilities and programs, and bicycle facilities and programs;

"(4) surface transportation safety improvements and programs, including highway safety improvement projects, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings;

"(5) surface transportation research and development programs;

"(6) capital and operating costs for traffic monitoring, management and control facilities and programs;

"(7) surface transportation planning programs;

"(8) transportation enhancement activities as defined in section 101;

"(9) transportation control measures listed in section 108(f) of the Clean Air Act, as amended;

"(10) incremental costs attributable to the use of alternative fuels by school buses, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas): Provided, That any conversion using funds authorized by this paragraph comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990: Provided further, That for purposes of this paragraph, 'alternative fuels' means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; and electricity; and

"(11) any other purpose approved by the Secretary.

Provided, That projects other than those described in paragraphs (3) and (4) may not be undertaken on roads functionally classified as local or rural minor collector, unless such roads are on a Federal-aid highway system as of January 1, 1991, except as approved by the Secretary. Surface Transportation Program funds may be used—

"(A) as part of a highway construction project, or as a separate effort, to mitigate wetland loss related to highway construction; or

"(B) to contribute to statewide efforts to conserve and restore wetlands adversely affected by highway construction

if such efforts comply with all applicable requirements of and regulations under Federal law, including but not limited to the National Environmental Policy Act, the Endangered Species Act, and the Federal Water Pollution Control Act. These efforts may include the development of statewide wetland conservation plans,

and other State or regional efforts to conserve and restore wetlands. Contributions toward these efforts may occur in advance of specific highway construction activity only if the State has a transportation planning process that precludes the use of such efforts to influence the environmental assessment of the highway construction project, the decision relative to the need to construct the highway project, or the selection of the project design or location.

"(b) GENERAL REQUIREMENTS.—

"(1)(A) At least 75 per centum of apportionments and obligation authority made available to a State for the Surface Transportation Program in any year shall be divided between—

"(i) the metropolitan areas of the State with a metropolitan statistical area population of over two hundred and fifty thousand; and

"(ii) the other areas of the State;

in proportion to their relative share of the State's population. The remaining 25 per centum of funds may be programmed in any area of the State.

"(B) Notwithstanding the requirements of subparagraph (A), in any State where—

"(i) greater than 80 per centum of the population of such State is located in one or more metropolitan statistical areas and greater than 80 per centum of the land area of such State is owned by the United States

only 35 per centum of Surface Transportation Program funds shall be divided based on the formula provided in subparagraph (A). The remaining 65 per centum of funds may be programmed in any area of the State.

"(C) The requirements of subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.

"(2) Programming and expenditure of funds for projects in metropolitan areas shall be consistent with the requirements of section 134, regarding metropolitan planning.

"(3) Programming and expenditure of funds for projects in non-metropolitan areas shall be consistent with the provisions of section 135, regarding statewide planning.

"(4) Of the apportionments made available to a State under this section, each State must assure that no less than 8 per centum of such funds are programmed for transportation enhancement activities, as defined in section 101.

"(5) In the case where a State constructs a facility under this program with a Federal share of 80 per centum and later converts the facility to operation such that the project would originally have been undertaken with a Federal share of 75 per centum, the State shall repay to the United States, with interest, the amount of the difference in the cost to the United States.

"(6) Each State shall assure that funds attributed to metropolitan and nonattainment areas pursuant to paragraph (1) shall be divided among such areas in a fair and equitable manner based on the relative population of such areas, except that the State may divide funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

"(7) Each State shall assure that funds attributed to attainment and non-metropolitan areas pursuant to paragraph (1) shall be distributed fairly and equitably among those areas.

"(c) ADMINISTRATION.—

"(1) If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State, that, if it fails to take corrective action within sixty days from the receipt of the notification, the Secretary will withhold future payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) The Governor of each State shall certify prior to the beginning of each fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for Surface Transportation Program projects during the fiscal year: Provided, That the State may request adjustment to the obligation amounts later in the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the Surface Transportation Program funds expected to be obligated by the State in that fiscal year for projects not subject to review by the Secretary.

"(3) Projects must be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(4) Any State may request that the Secretary no longer review and approve design and construction standards for any project other than a project on an Interstate highway or other multilane limited access control highways, except as provided in section 102(b), regarding resurfacing projects. After receiving any such notification the Secretary shall undertake project review as requested by the State.

"(5) The Secretary shall make payments to a State of costs incurred by it for the Surface Transportation program. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

"(d) For purposes of paragraph (1)(A)(i) and paragraph (6) of subsection (b), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by—

(1) amending paragraph (1) to read as follows:

"(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program, in a manner such that—

"(A) a State's per centum share of all funds allocated or apportioned pursuant to this title for fiscal year 1992 and any fiscal year thereafter, excluding funds apportioned or allocated for the Interstate Construction, Interstate Substitute, Federal Lands Highways, Congestion Mitigation and Air Quality Improvement, Minimum Allocation, National Magnetic Levitation Design, and Emergency Relief programs;

shall be equal to—

"(B) such State's per centum share of all apportionments and allocations received under this title for fiscal years 1987, 1988, 1989, 1990, and 1991, excluding apportionments and allocations received for the Interstate Construction, Interstate Substitute, Federal Lands Highways and Emergency Relief Programs, all apportionments and allocations received for demonstration projects, and the portion of allocations received pursuant to section 157, regarding minimum allocation, that is attributable to apportionments made under the Interstate Construction and Interstate Substitute programs in such years: Provided, That, in calculating a State's per centum share under this subparagraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, and 1996, each State shall be deemed to have received one-half of 1 per centum of all funds apportioned for the Interstate Construction Program in fiscal years 1987, 1988, 1989, 1990, and 1991: And provided further, That in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 per centum of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for interstate construction of more than $50,000,000 for fiscal year 1992.

"(C) ENERGY CONSERVATION, CONGESTION MITIGATION, AND CLEAN AIR BONUS.—This paragraph shall apply beginning in fiscal year 1993 and shall apply only to those States with one or more metropolitan statistical areas with a population of two hundred fifty thousand or more. The amount of each such State's Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) shall be reduced by multiplying such amount by a factor of 0.9 if the State's vehicle miles of travel per capita is more than 110 per centum of its vehicle miles of travel in the base year. Reductions in apportionments made pursuant to the preceding sentence shall be placed in a Surface Transportation Bonus Fund and shall be used, to the extent such funds are available, to increase the amount of Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) by a factor of 1.1 for each State affected by this paragraph, if such State's vehicle miles of travel per capita is less than 90 per centum of its vehicle miles of travel per capita in the base year. Funds remaining thereafter in the Surface Transportation Bonus Fund, if any, shall be apportioned to the States affected by this paragraph in proportion to each State's share of Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) among all such States prior to any adjustments made pursuant to this paragraph. Funds so apportioned shall be treated as funds pursuant to section 133(b)(1)(A)(i) area treated. For the purposes of this paragraph, the term 'base year' shall mean the year 1990 for fiscal years 1993, 1994, and 1995, and shall mean the year 1995 for fiscal years 1996 and all subsequent fiscal years.

"(D) For purposes of subparagraph (C), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(2) striking "upon the Federal-aid systems" and inserting in lieu thereof "upon the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, and the Interstate System";

(3) striking "paragraphs (4) and (5)" and inserting in lieu thereof "subparagraph (5)(A)"; and

(4) striking "and sections 118(c) and 307(d)" and inserting in lieu thereof "and section 307".

(c) FEDERAL SHARE.—Section 120(a) of title 23, United States Code, is amended by striking "Subject to the provisions of subsection (d) of this section, the" and inserting in lieu thereof "The"; by striking ", primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system, and the Federal-aid urban system" and inserting instead "Surface Transportation Program funds"; and by inserting "for capital projects that add capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times, and 80 per centum of the cost of construction for other projects", in two places after the words "cost of construction".

(d) GUIDANCE.—The Secretary shall develop and make available to the States guidance on how to determine what portion of any project under section 133 of title 23, United States Code, is eligible for an 80 per centum Federal share.

(e) CONFORMING AMENDMENTS.—The analysis of title 23, United States Code, is amended by striking:

"133. [Repealed Public Law 90-495]."

and inserting in lieu thereof:

"133. Surface Transportation Program.".

SEC. 107. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23, United States Code, is amended to read as follows:

"§149. Congestion Mitigation and Air Quality Improvement Program

"The Secretary shall establish a congestion mitigation and air quality improvement program pursuant to the requirements of this section.

"(a) ELIGIBLE PROJECTS.—A project may be funded under the congestion mitigation and air quality improvement program—

"(1) only if guidance issued by the Environmental Protection Agency pursuant to section 108(f) of the Clean Air Act, as amended, shows to the satisfaction of the Secretary, after consultation with the Administrator of the Environmental Protection Agency, that the project is likely to contribute to the attainment of any national ambient air quality standard, except in the case where such guidance is not available, only if the project is described in section 108(f) of the Clean Air Act, as amended;

"(2) the project is listed in a State implementation plan that has been approved pursuant to the Clean Air Act, as amended and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project is likely to contribute to the attainment of any national ambient air quality standard, whether through reductions in vehicle miles travelled, fuel consumption, or through other factors; and

"(4) pursuant to this subsection projects which research, develop and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area within the State shall be deemed to be eligible projects; and

only if the project does not result in the construction of new capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times.

"(b) DISTRIBUTION OF FUNDS.—Apportionments made under this section shall be made available in nonattainment areas as defined pursuant to the Clean Air Act, as amended, with urbanized area populations over fifty thousand in proportion to the relative share of weighted nonattainment area population as calculated in section 104(b)(2) within the State: Provided, That each State that contains a nonattainment area shall receive a minimum apportionment of one-quarter of 1 per centum of the apportionment made under this section: Provided further, That the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures. Selection of projects for such funds shall be carried out by the metropolitan planning organization for each such area in accordance with the provisions of section 134 of title 23, United States Code.

"(c) FEDERAL SHARE.—The Federal Share payable for a project under this section shall not exceed 80 per centum of the cost of the project.".

(b) APPORTIONMENT.—Section 104(b)(2) is amended to read as follows:

"(2) FOR THE CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—In the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States, where weighted nonattainment area population shall be calculated by multiplying the population of any nonattainment areas within any State that is in nonattainment for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal nonattainment area;

"(B) 1.1 if the area is classified as a moderate nonattainment area;

"(C) 1.2 if the area is classified as a serious nonattainment area;

"(D) 1.3 if the area is classified as a severe nonattainment area;

"(E) 1.4 if the area is classified as an extreme nonattainment area;

where the classification of nonattainment areas is that used in the Clean Air Act, as amended, and by further multiplying the population of any non-attainment area by a factor of 1.2 is such area is in nonattainment for carbon monoxide.". Notwithstanding any other provision of this section, any State which is subject to air pollution control measures pursuant to section 184 (related to Interstate Ozone Air Pollution) or section 176A (related to Interstate Transport Commissions) of the Clean Air Act Amendments of 1990 shall receive a minimum of one-tenth of 1 per centum of the total funds apportioned under this section.".

(c) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 149. Truck lanes."

and inserting instead:

"Sec. 149. Congestion Mitigation and Air Quality Improvement Program.".

SEC. 108. BRIDGE PROGRAM.

(a) FEDERAL SHARE.—Section 144(f) of title 23, United States Code, is amended to read as follows:

"(f) The Federal share payable for any project undertaken under this subsection shall be 80 per centum, except for any costs attributable to the expansion of the capacity of any bridge or the construction of any new bridge where such new capacity or new bridge is primarily available to single occupant vehicles, in which case the Federal share payable shall be 75 per centum. In the case where a State constructs a bridge or portion thereof not primarily available to single occupant vehicles pursuant to this section, and later converts the bridge or portion thereof to be primarily available to single occupant vehicles, the State shall repay to the United States, with interest, the amount of the additional cost borne by the United States that would have been borne by the State had the bridge or portion thereof been originally available primarily to single occupant vehicles.".

(b) NEW CAPACITY GUIDANCE.—The Secretary shall develop and make available to the States criteria for determining what share of any project undertaken pursuant to section 144 of title 23, United States Code, is attributable to the expansion of the capacity of a bridge where the new capacity is available to single occupant vehicles.

(c) BRIDGE PAINTING, SEISMIC RETROFIT, AND MAINTENANCE.—Section 144(e) of title 23, United States Code, is amended by adding at the end "Funds apportioned pursuant to this subsection shall be available for the painting and seismic retrofit of, or application of calcium magnesium acetate on, any bridge eligible for assistance under this section.

(d) REPEAL OF DISCRETIONARY BRIDGE PROGRAM.—Section 144(g) of title 23, United States Code, is repealed.

(e) LEVEL OF SERVICE CRITERIA.—The Secretary shall, by January 1, 1992, in consultation with the States, establish level of service criteria for the Bridge Program: Provided, That, notwithstanding the requirements of such criteria or of section 144 of title 23, United States Code, up to 35 per centum of bridge program funds made available to a State in any fiscal year shall be available for expenditure on any public bridge, provided that such expenditure conforms with the bridge management system adopted by the State.

(f) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 144. Highway bridge replacement and rehabilitation program."

and inserting in lieu thereof:

"Sec. 144. Bridge Program."

(2) Section 144 of title 23, United States Code, is amended as follows:

(A) The title is amended to read:

"§ 144. Bridge Program".

(B) Subsection (b) is repealed; and subsection (c) is amended by striking", other than those on any Federal-aid system," and by striking "on and off the Federal-aid system;".

(C) Subsection (e) is amended by striking "(1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation." and inserting instead "(1) Bridges categorized for rehabilitation and (2) bridges categorized for replacement."; and (2) by striking "on the Federal-aid primary system" and inserting instead "under the Surface Transportation Program".

(g) TRANSFER OF FUNDS.—Up to sixty percent of the apportionment of Bridge Program funds are eligible to be transferred to either the Surface Transportation Program or the Interstate Maintenance Program if apportionment of bridge funds exceed bridge funds obligated in the previous year be more than 50 percent. These transferred funds may be programmed in any area of the State and are not subject to the requirements of distribution specified in section 133(b)(1) of title 23, United States Code.

SEC. 109. INTERSTATE MAINTENANCE PROGRAM.

(a) LIMITATION ON NEW CAPACITY.—Section 119(a) of title 23, United States Code, is amended by inserting after the end of the first sentence: "Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.".

(b) ADEQUATE MAINTENANCE OF THE INTERSTATE SYSTEM.—Section 119(f)(1) of title 23, United States Code, is amended by inserting at the end of the paragraph "The Secretary must find that the State is adequately maintaining the Interstate System to accept such a certification.".

(c) NON-FEDERAL MATCH REQUIREMENT.—

(1) Section 119(a) of title 23, United States Code, is amended by striking "section 120(c)" and inserting in lieu thereof "section 120(d)".

(2) Section 120(d) of title 23, United States Code, is amended to read as follows:

"(d) INTERSTATE MAINTENANCE.—The Federal share payable on account of any project undertaken for the maintenance of Interstate highways under the provisions of section 119 shall either—

"(1) not exceed 80 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) not exceed 80 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage of the area of all such lands in such State is of its total

area, except that the Federal share payable on any project shall not exceed 95 per centum of the total cost of the project.

In any case where a State elects to have the Federal share as provided in paragraph (2), the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring the State to use solely for purposes eligible under this title (other than paying its share of projects undertaken pursuant to this title) during the period covered by the agreement the difference between the State's share as provided in paragraph (2) and what its State's share would be if it elected to pay the share provided in paragraph (1) for all projects subject to the agreement.".

(d) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining—

(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate Highway or bridge; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.

(e) NON-CHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23, United States Code, is amended by adding "and routes on the Interstate system designated under section 139(a) of this title before January 1, 1984" after the phrase "under sections 103 and 139(c) of this title" each of the two times it appears in the first sentence.

(f) CONFORMING AMENDMENTS.—

(1) NEW TITLE.—The title of section 119 of title 23, United States Code, is amended to read:

"§Sec. 119. Interstate Maintenance Program";

(2) ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 119. Interstate System Resurfacing."

and inserting in lieu thereof:

"Sec. 119. Interstate Maintenance Program.".

(3) Section 119 of title 23, United States Code, is amended—

(A) by striking out subsection (c), with regard to reconstruction, and inserting in lieu thereof the following new subsection:

"(c) Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.";

(B) by striking out subsection (e), with regard to toll facilities;

(C) by striking out, in subsection (a), ", rehabilitating, and reconstructing" and inserting in lieu thereof "and rehabilitating"; and

(D) in subsection (f)—

(i) by striking "PRIMARY SYSTEM" from the title and inserting in lieu thereof "SURFACE TRANSPORTATION PROGRAM"; and

(ii) by striking "rehabilitating, or reconstructing" and inserting in lieu thereof "or rehabilitating".

(4) APPORTIONMENT.—Section 104(b)(5)(B) of title 23, United States Code, is amended by striking "rehabilitating, and reconstructing" and inserting instead "and rehabilitating".

SEC. 110. INTERSTATE CONSTRUCTION PROGRAM.

(a) MASSACHUSETTS.—Paragraph 104(b)(5)(A) of title 23, United States Code, is amended by striking "upon the approval by Congress, the Secretary shall use the Federal share of such approval estimates in making apportionments for the fiscal year 1993" and inserting in lieu thereof:

"The Secretary shall use the Federal share of the 1991 Interstate Cost Estimate, adjusted to reflect (i) all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of Interstate discretionary funds, and (iv) transfers of Interstate construction funds, to make apportionments for fiscal years 1993, 1994, 1995 and 1996 in the ratio in which the Federal share of the estimated cost of completing the Interstate System in a State bears to the Federal share of the sum of the estimated cost of completing the Interstate System in all of the States, except Massachusetts: Provided, That Massachusetts shall be apportioned $100,000,000 for the fiscal years 1993, $800,000,000 for the fiscal year 1994, $800,000,000 for the fiscal year 1995, and $850,000,000 for the fiscal year 1996.".

(b) CONFORMING AMENDMENTS.—Paragraph 104(b)(5)(A) of title 23, United States Code, is further amended by striking "1960 through 1990" the two places it appears and inserting instead "1960 through 1996"; and by striking "1967 through 1990" and inserting instead "1967 through 1996". Unobligated balances of funds allocated for Forest Highways may be obligated for Public Lands highways.

SEC. 111. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended as follows:

(1) Subsection (c) is amended by inserting at the end "The secretary shall allocate 66 per centum of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987."; and by inserting after "allocate" the words "34 per centum of".

(2) Subsection (a) is repealed and the following subsections are relettered accordingly.

(b) PROJECTS.—Section 204 of title 23, United States Code, is amended as follows:

(1) Subsection (b) is amended (A) by striking "construction and improvements thereof" and inserting in lieu thereof "planning, research, engineering and construction thereof"; and (B) by inserting at the end "Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways."; and by striking "forest highways and".

(2) Subsection (a) is amended by striking "forest highways,"; and by inserting at the end "Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.".

(3) Subsection (c) is amended by striking "on a Federal aid system" and inserting in lieu thereof "eligible for funds apportioned under section 104 or section 144 of this title".

(4) Section 204 of title 23, United States Code, is amended by striking subsection (h) and inserting instead:

"(h) Funds available for each class of Federal lands highways may be available for the following—

"(1) transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development;

"(2) adjacent vehicular parking areas;

"(3) interpretive signage;

"(4) acquisition of necessary scenic easements and scenic or historic sites;

"(5) provision for pedestrians and bicycles;

"(6) construction and reconstruction of roadside rest areas including sanitary and water facilities; and

"(7) other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.".

(5) Section 205(c) is amended by striking "$15,000" in four places and inserting in lieu thereof "$50,000".

(c) REHABILITATION.—Of the funds authorized to be appropriated pursuant to section 103(b)(7)(B) of this Act, an amount equal to $20,000,000 shall be available for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for continued rehabilitation of federally-owned highways under the Federal lands highway program of title 23, United States Code. Such funds shall remain available until expended.

(d) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.

(e) INDIAN RESERVATION ROADS PLANNING.—Two percent of funds allocated for Indian reservation roads shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or Metropolitan Planning Organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.

(f) CONFORMING AMENDMENTS.—Section 203 of title 23, United States Code, is amended by striking "forest highways" in two places.

SEC. 112. TOLL FACILITIES.

(a) REPEAL OF NATIONAL POLICY.—Section 301 of title 23, United States Code, is hereby repealed. The analysis of chapter 3 of such title is amended by striking out the item relating to section 301.

(b) NEW REQUIREMENTS.—Section 129 of title 23, United States Code, is amended to read as follows:

"§129. Toll facilities

"(a) PROHIBITION.—Tolls may not be imposed on any existing free interstate highway.

"(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the Federal share payable for any project under this section shall not exceed 35 per centum of the cost of the project for construction of new toll facilities: Provided, That, for the purposes of subsection (d), the Federal share may be increased by a percentage of the remaining cost that is equal to the percentage that unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, in a State are of its total area, and shall not exceed 80 per centum of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities: Provided, That for the purposes of subsection (d) the Federal share may be increased in accordance with the provisions of section 120(a), as amended. A State may loan all or part Federal funds made available pursuant to this section to a public agency constructing a toll facility: Provided, That such loan may be made only after all Federal environmental requirements have been complied with and permits obtained. The amount

loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not less than five years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose eligible under this title. The Governor of each State making a loan pursuant to this section shall establish procedures and guidelines for making such loans.

"(c) CONSTRUCTION OR CONVERSION OF FACILITIES.—Except as otherwise provided in this section, Federal funds to carry out this title may not be obligated on toll facilities or to convert free facilities to toll facilities. The Secretary may permit Federal participation, on the same basis and in the same manner as participation in projects on free highways under this title, in the construction of any toll highway, bridge, tunnel, or approach thereto, or the conversion of any free highway, bridge, tunnel or approach thereto to a toll facility, upon compliance with the provisions of this subsection, except that no Federal funds may be used to impose tolls on any existing free interstate highway. The highway, bridge, tunnel, or approach thereto must be publicly owned. The appropriate State transportation or highway department or departments must be party to an agreement with the Secretary that provides that—

"(1) all tolls received from the operation of the facility, less the actual cost of operation and maintenance, shall be applied to repayment, including debt service and reasonable return on investment, of the party financing the facility, except for amounts contributed by the United States; and

"(2) after the date of final repayment, revenues from tolls in excess of revenues needed to recover actual costs of operation and maintenance shall be used for any transportation project eligible under this title.

"(d) CONSTRUCTION OF FERRYBOATS AND FERRY APPROACHES.—The Secretary may permit Federal participation under this title in the construction of ferryboats and ferry approaches, whether toll or free, subject to the following conditions:

"(1) It is not feasible to build a bridge, tunnel, or other normal highway structure in lieu of the ferry.

"(2) The operation of the ferry shall not be on a route that is classified as local, as a rural minor collector, or as a route on the Interstate System, except that, in the case of ferry systems that serve such routes and other routes in an integrated system, such ferry may operate throughout the entire service area of the ferry system.

"(3) The ferry shall be publicly owned and operated.

"(4) The operating authority and the amount of fares charged for passage on the ferry shall be under the control of the State, and all revenues shall be applied to actual and necessary costs of operation, maintenance, and repair, including replacement of ferryboats.

"(5) The ferry shall be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise the Commonwealth of Puerto Rico, operations between the islands of Maine, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of the ferry operations shall be in any foreign or international waters.

"(6) No ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from a disposition shall be credited to the unprogrammed balance of Surface Transportation Program funds last apportioned to the State. Any amounts credited shall be in addition to other funds then apportioned to the State and shall be available for expenditure in accordance with the provisions of this title.

"(e) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as five such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

"(2) Notwithstanding subsection (c), the Federal share payable for such programs shall be 100 per centum. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least one year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund any project for more than three years.

"(3) Revenues generated by any pilot project under this section must be applied to projects eligible under this title.

"(4) The Secretary shall monitor the effect of such projects for a period of at least ten years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every two years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

"(5) Of the sums made available the Secretary pursuant to section 104(a), not to exceed $25,000,000 shall be made available each fiscal year to carry out the requirements of this subsection.".

(c) EXISTING TOLL FACILITY AGREEMENTS.—At the request of the non-Federal parties to any toll facility agreement reached before October 1, 1991 under (1) section 105 of the Federal-Aid Highway Act of 1978; or (2) section 129 of title 23, United States Code, as in effect immediately prior to the date of enactment of this Act; the Secretary shall allow for the continuance of tolls without repayment of Federal funds, except that revenues collected from such tolls in excess of revenues needed to recover the local share of construction and acquisition costs including debt service and the actual costs of operation and maintenance shall be used for: (1) any transportation project eligible under this title, or (2) costs associated with transportation facilities under the jurisdiction of said non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of said facilities.

SEC. 113. METROPOLITAN PLANNING.

(a) NEW REQUIREMENTS.—Section 134 of title 23, United States Code, is amended to read as follows:

"§134. Metropolitan planning

"(a) METROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization shall be designated for each urbanized area of over fifty thousand in population within any State by agreement among the Governor and the units of general purpose local government. Each metropolitan planning organization shall designate boundaries for a metropolitan area pursuant to subsection (b) and shall carry out the transportation planning process required by this section. Metropolitan planning organizations in existence on or before October 1, 1991 shall be considered as being designated for the purposes of this section. Metropolitan planning organizations that represent portions of multi-State metropolitan areas shall, where feasible, provide for coordinated transportation planning for the entire metropolitan area by adopting a single transportation improvement program for such area. The Governor of any State may enter into such agreements as may be necessary with the Governor of any other State to provide for comprehensive multi-State transportation planning for metropolitan areas that encompass portions of more than one State.

"(b) METROPOLITAN AREA BOUNDARIES.—For the purposes of this title, the boundaries of any metropolitan area shall be determined by the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the area expected to become urbanized within the forecast period, and may encompass the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area as defined by the Bureau of the Census. For areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act, as amended, the boundaries of the metropolitan area shall be the boundaries of the nonattainment area, except as otherwise provided by the metropolitan planning organization.

"(c) GENERAL REQUIREMENT FOR PLANNING.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum—

"(1) consider preservation of existing transportation facilities and, where practical, meet transportation needs by using existing transportation facilities more efficiently;

"(2) provide that transportation planning is consistent with applicable Federal, State and local energy conservation programs, goals and objectives;

"(3) consider the need to relieve congestion and prevent congestion from occurring where it does not yet occur;

"(4) conform with the applicable requirements of the Clean Air Act as amended;

"(5) consider the effect of transportation policy decisions on land use and development, and assure that transportation plans and programs are consistent with the provisions of all applicable short- and long-term land use and development plans;

"(6) recommend, where appropriate, the use of innovative financing mechanisms, including value capture, tolls, and congestion pricing to finance projects and programs;

"(7) provide for the programming of expenditure on transportation enhancement activities as required in section 133;

"(8) consider the effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded;

"(9) consider the overall social, economic, and environmental effects of transportation decisions;

"(10) take into account international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations;

"(11) consider the need for connectivity of roads within the metropolitan area with roads outside the metropolitan area; and

"(12) develop a long range transportation plan.

"(d) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT OF PROGRAM.—The metropolitan planning organization, in cooperation with the State and relevant transit operators, shall develop a transportation improvement program that includes all projects within the metropolitan area proposed for funding pursuant to this title and the Urban Mass Transportation Act, that is consistent with the long range transportation plan developed by the metropolitan planning organization, and that conforms with the applicable State implementation plan developed pursuant to the Clean Air Act, as amended. The program may include a project only if full funding can be reasonably anticipated to be available for such project within the period of time contemplated for its completion. The program shall be updated at least every two years, and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include a priority list of projects and project segments to be carried out within each three-year period after the initial adoption of the transportation improvement program.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (e), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization, and shall be in conformance with the transportation improvement program for the area.

"(e) ADDITIONAL REQUIREMENTS FOR AREAS OF OVER 250,000 POPULATION.—

"(1) For metropolitan statistical areas of more than two hundred fifty thousand population within any State, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by a metropolitan planning organization in cooperation with the State and transit operators.

"(2) The planning process shall include a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies. In nonattainment areas for ozone or carbon monoxide, the development of the congestion management system shall be coordinated with the development of the transportation element of the State Implementation Plan required by the Clean Air Act as amended.

"(3) The Secretary shall assure that each metropolitan planning organization is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once per annum. The Secretary may certify a metropolitan planning organization only if it is complying with the requirements of section 134 and other applicable requirements of Federal law. If at any time after October 1, 1992 a metropolitan planning organization is not certified by the Secretary, the obligation authority attributed to the relevant metropolitan area pursuant to section 133(b)(1) shall lapse and be redistributed to other States in accordance with the requirements of section 104(d)(2), regarding redistribution of obligation authority.

"(4) SELECTION OF PROJECTS.—All projects carried out with Federal participation pursuant to this title (excluding projects undertaken pursuant to the Bridge and Interstate Maintenance Programs) or the Urban Mass Transportation Act within the boundaries of a metropolitan area covered under this subsection shall be selected by the metropolitan planning organization and the Governor in conformance with the transportation improvement program for such area and the priorities established therein. Projects undertaken pursuant to the Bridge and Interstate Maintenance Programs shall be selected by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement plan for the area.

"(5) The metropolitan planning organization for areas covered under this subsection shall provide for a fair and equitable distribution of funds within the metropolitan area.

"(6) Metropolitan planning organizations for areas covered under this subsection shall provide opportunity for public review of draft transportation plans and programs prior to final approval of such plans and programs.

"(f) ADDITIONAL REQUIREMENTS FOR NONATTAINMENT AREAS.—

"(1) Notwithstanding any other provision of law, for areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(2) If, at the end of any three-year planning period established pursuant to subsection (d), a project to be carried out within such period has not been carried out, any changes in emissions of pollutants that contribute to nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, that have been attributed to such project shall be discounted for the purposes of conformity review pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)) until such time as binding commitments have been made to complete the project by a date certain.

"(3) For the purpose of determining conformity pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)), the metropolitan planning organization shall take into account emissions expected to result from all projects to be carried out within the metropolitan area, whether such projects are publicly or privately funded.

"(g) REPROGRAMMING OF SET ASIDE FUNDS.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this subsection may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.

"(h) For purposes of subsections (b) and (e), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(b) 1 PERCENT SET ASIDE.—Section 104(f) of title 23, United States Code, is amended by striking in paragraph (1) "one-half per centum" and inserting in lieu thereof "1 per centum"; by striking in paragraph (1) "the Federal-aid systems" and inserting in lieu thereof "programs authorized under this title"; by striking in paragraph (1) all after the fifth comma and inserting in lieu thereof "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate Construction and Interstate Substitute programs."; and by striking in paragraph (3) "section 120" and inserting in lieu there of "section 120(j)".

(c) APPORTIONMENT WITHIN A STATE.—Section 104(f)(4) of title 23, United States Code, is amended by striking "and metropolitan area transportation needs" and inserting in lieu thereof "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable Federal law.".

(d) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 134 Transportation planning in certain urban areas."

and inserting in lieu thereof:

"Sec. 134. Metropolitan Planning.".

(2) Section 104(f)(3) of title 23, United States Code, is amended by striking "designated by the State as being".

SEC. 114. STATEWIDE PLANNING.

(a) NEW REQUIREMENTS.—Section 135 of title 23, United States Code, is amended to read as follows:

"§135. Statewide planning

"(a) MANAGEMENT SYSTEMS.—Each State shall have a Bridge Management System, a Pavement Management System, a Safety Management System, and a Congestion Management System developed in accordance with regulations prescribed by the Secretary, except that any State that certifies to the satisfaction of the Secretary that no significant congestion exists or is projected to exist within such State shall not be required to have a congestion management system. Systems shall include inventories and use current condition data to identify needs. The Bridge Management System shall include provisions for life-cycle cost analysis where appropriate. The Secretary may withhold project approvals under section 106 and may decline to accept a notice and certification under section 133(c)(2) if a State fails to have approved systems. The regulations shall provide for periodic Federal review of the Management Systems.

"(b) TRAFFIC MONITORING SYSTEM.—Each State shall have a Traffic Monitoring System to provide statistically based data necessary for pavement management, bridge evaluation, safety management, congestion management, national studies, and other activities under this title. The Secretary shall establish guidelines and requirements for the Traffic Monitoring System.

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall—

"(1) take into account the results of the management systems required pursuant to subsection (a);

"(2) take into account any Federal, State or local energy use goals, objectives, programs or requirements;

"(3) take into account any valid State or local development or land use plans, programs, or requirements;

"(4) take into account international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations;

"(5) provide for comprehensive surface transportation planning for non-metropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation;

"(6) be consistent with any metropolitan area plan developed pursuant to section 134;

"(7) provide for connectivity between metropolitan areas within the State and with metropolitan areas in other States;

"(8) take into account recreational travel and tourism;

"(9) take into account any State plan developed pursuant to the Federal Water Pollution Control Act; and

"(10) be coordinated with the development of any State implementation plan required under the Clean Air Act, as amended, and provide for compliance with any relevant requirements of such plan and such Act.

"(d) ADDITIONAL REQUIREMENTS FOR STATES CONTAINING NONATTAINMENT AREAS.—Any State

containing an area in nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, shall develop and update at least every two years a long range transportation plan. In addition to the requirements in subsection (c), such plan shall—

"(1) incorporate without amendment the provisions of any metropolitan area plan developed pursuant to section 134; and

"(2) provide for coordination in the development of the State transportation plan required pursuant to this section and the State implementation plan required pursuant to the Clean Air Act, as amended.

"(e) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.".

(b) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking :

"Sec. 135. Traffic operations improvement programs.".

and inserting in lieu thereof:

"Sec. 135. Statewide Planning.".

SEC. 115. RESEARCH AND DATA COLLECTION.

(a) RESEARCH PROGRAM.—Section 307 of title 23, United States Code, is amended as follows:

(1) NEW REQUIREMENTS.—Subsection (b) is redesignated (b)(1), and the following new paragraphs are added thereafter:

"(2) The highway research program shall include a coordinated long term program of research on Intelligent Vehicle Highway Systems.

"(3) The highway research program shall include a coordinated long term program of research for the development, use and dissemination of performance indicators to measure the performance of the surface transportation system, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

"(4) The highway research program shall continue those portions of the work of the Strategic Highway Research Program that the Secretary deems to be important.

"(5) The Secretary shall create and administer a transportation research fellowship program to attract qualified students to the field of transportation engineering and research, which shall be known as The Dwight David Eisenhower Transportation Fellowship Program. No less than $2,000,000 per fiscal year of the funds set aside pursuant to section 307 shall be made available to carry out this paragraph.

"(6)(A) The Secretary in cooperation with other appropriate Federal agencies, the Governors of Arizona, California, New Mexico and Texas, and the appropriate representatives of the Republic of Mexico, shall assess the need for transportation infrastructure to facilitate trade between the United States and Mexico. Within 18 months following the date of the enactment of this Act, the Secretary shall report to Congress and the Governors of Arizona, California, New Mexico, and Texas on such transportation infrastructure needs and the associated costs.

"(B) The Secretary in cooperation with other appropriate Federal agencies, the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska, and the appropriate representatives from Canada, shall assess the need for transportation infrastructure to facilitate trade between the United States and Canada. Within 18 months following the date of the enactment of this Act the Secretary shall report to Congress and the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska on such transportation infrastructure needs and the associated costs.".

(2) Subsection (c) is amended by striking "highway programs and local public transportation systems" and inserting in lieu thereof "transportation programs"; by striking "highway usage" and inserting in lieu thereof "transportation"; and by striking "highways and highway systems" and inserting in lieu thereof "transportation systems".

(b) FEDERAL SHARE FOR STATE RESEARCH ACTIVITIES.—Section 120(j) is amended by striking "85 per centum" and inserting in lieu thereof "80 per centum"; and by striking "exclusive of" and inserting in lieu thereof ", and"

(c) STATE AUTHORITY TO PROGRAM FUNDS.—Section 307(c) of title 23, United States Code, is amended by striking "upon the request of the State highway department, with the approval of the Secretary, with or without State funds," in paragraph (1) and inserting in lieu thereof "by the State highway department only"; by striking "Not to exceed 1½ per centum" and inserting in lieu thereof "Two per centum"; by striking "section 104" and inserting in lieu thereof "sections 104 and 144"; and by repealing paragraphs (2) and (3).

(d) DATA COLLECTION AND ANALYSIS.—

(1) BUREAU OF TRANSPORTATION STATISTICS.—There is established within the Department a Bureau of Transportation Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(A) compiling, analyzing, and publishing a comprehensive set of transportation statistics which should provide timely summary in the form of industrywide aggregates, and multiyear averages, and totals of some similar form which include information on—

(i) productivity in the various portions of the transportation sector,

(ii) traffic flows,

(iii) travel times,

(iv) vehicle weights,

(v) variables influencing traveling behavior including choice of mode,

(vi) travel costs of intracity commuting and intercity trips,

(vii) availability and number of passengers served by mass transit for each mass transit authority,

(viii) frequency of vehicle and transportation facility repairs and other interruptions of service,

(ix) accidents,

(x) collateral damage to the human and natural environment,

(xi) and the condition of the transportation system, all of information which shall be suitable for conducting cost-benefit studies, including comparisons among modes and intermodal transport systems.

(B) The Director of the Bureau of Transportation Statistics, in cooperation with the States, shall pursue a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. This effort shall—

(i) be coordinated with the efforts undertaken pursuant to section 307(b)(3) of title 23 to develop performance indicators for the national transportation system;

(ii) assure that data and other information are collected in a manner to maximize the ability to compare data from different regions and time periods; and

(iii) assure that data are quality controlled for accuracy and are disseminated to the States and other interested parties.

(C) promulgating guidelines for the collection of information by the Department required for statistics under this paragraph to assure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis;

(D) coordinating the collection of information by the Department for developing such statistics with related information-gathering activities conducted by other Federal agencies;

(E) Making readily accessible the statistics published under this paragraph; and

(F) identifying missing information of the kind identified under subparagraph (A) (i) through (xi), reviewing these information needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to the appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

(2) Nothing in the provisions of paragraph (1) shall authorize the Bureau to require the collection of any data by any other Department, or to establish observation or monitoring programs.

(3) Information compiled by the Bureau of Transportation Statistics shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), reveal trade secrets and commercial or financial information provided by any person to be identified with such person.

(4) DIRECTOR OF TRANSPORTATION STATISTICS.—The Bureau shall be under the direction of a Director of Transportation Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The term of the Director shall be 4 years. To begin within 180 days of enactment of this Act. The Director shall be a qualified individual with experience in the compilation and analysis of transportation statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) TRANSPORTATION STATISTICS ANNUAL REPORT.—On January 1, 1992, and each January 1 thereafter, the Director shall submit to the President a Transportation Statistics Annual Report (hereafter referred to as the "Report"). The Report shall include, but not be limited to those items identified in subparagraph (A) (i) through (x). The Report shall also include documentation of the methods used to obtain and assure the quality of the statistics presented in the Report and recommendations in improving transportation statistical information.

(6) CONTINUING PERFORMANCE OF THE FUNCTIONS OF THE DIRECTOR PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(7) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—The Director shall appoint an Advisory Council on Transportation Statistics, comprised of no more than 6 private citizens who have expertise in transportation statistics and analysis (except that at least one of such appointees should have expertise in economics) to advise the Director on transportation statistics and analyses, including whether the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

(8) STUDY OF DATA NEEDS.—(A) No later than 1 year after the start of Bureau operations, the Secretary of the Department of Transportation in consultation with the Director of the Bureau and the Assistant Secretary designated as Chief Information Resources Officer, shall enter into an agreement with the National Academy of Sciences for a study, evaluation, and report on the adequacy of the data collection procedures

and capabilities of the Department. No later than 18 months following an agreement, the National Academy of Sciences shall report its findings to the Secretary and the Congress. The report shall include an evaluation of the Department's data collection resources, needs, and requirements, and shall include an assessment and evaluation of the following systems, capabilities, and procedures established by the Department to meet those needs and requirements—

(i) data collection procedures and capabilities;

(ii) data analysis procedures and capabilities;

(iii) the ability of data bases to integrate with one another;

(iv) computer hardware and software capabilities;

(v) management information systems, including the ability of management information systems to integrate with one another;

(vi) Department personnel; and

(vii) the Department's budgetary needs and resources for data collection, including an assessment of the adequacy of the budgetary resources provided to the Department and budgetary resources used by the Department for data collection needs and purposes.

(9) The report shall include recommendations for improving the Department's data collection systems, capabilities, procedures, data collection, and analytical hardware and software, and for improving its management information systems.

(10) FUNDING.—Section 104(a) of title 23, United States Code, is amended by inserting ", data collection, and other programs" after "research"; and by inserting ", and section 303" after "section 307".

(11) ANALYSIS.—The analysis for chapter 3 of title 23, United States Code, is amended by striking:

"Sec. 303. [Repealed. Public Law 97-449].".

and inserting in lieu thereof:

"Sec. 303. Data Collection and Analysis.".

(12) STUDY OF STATE LEVEL OF EFFORT.—(A) Not later than 3 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall undertake a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(B) Such study shall include collection of data relating to State and local revenue collected and spent on surface transportation programs. Such revenue shall include income from fuel taxes, toll revenues including bridge and ferry tolls, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other appropriate State and local revenue sources as the Director of the Bureau deems appropriate.

(C) Not later than 9 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall provide a written report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives detailing the findings of the study. Such report shall include recommendations on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data by State on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

(e) FUNDAMENTAL PROPERTY STUDIES.—(1) The Administrator of the Federal Highway Administration (hereafter in this subsection referred to as the "Administrator") is directed to conduct fundamental chemical property and physical property studies of petroleum asphalts and modified asphalts used in highway construction in the United States with the primary emphasis of prediction of pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

(2) In carrying out the studies in paragraph (1), the Administrator shall enter into contracts with a non-profit organization with demonstrated expertise in research associated in the above areas in order to undertake the necessary technical and analytical research in coordination with existing programs, including the Strategic Highway Research Program, that evaluate actual performance of asphalts and modified asphalts in roadways.

(3) ACTIVITIES OF STUDIES.—The Administrator in conducting the studies in this subsection shall include the following activities:

(A) fundamental composition studies;

(B) fundamental physical and rheological property studies;

(C) asphalt-aggregate interaction studies;

(D) coordination of composition studies, physical and rheological property studies and asphalt-aggregate interaction studies for the purposes of prediction of pavement performance including refinements of strategic Highway Research Program specifications.

(4) The Administrator, in coordination with a non-profit research organization, shall implement a test strip, the purpose of which shall be to demonstrate and evaluate unique energy and environmental advantages of the use of shale oil modified asphalts under extreme climate conditions. The Administrator shall report to Congress on his findings as required under paragraph (6). Such findings shall include an evaluation of this test strip and legislative recommendations on a national program to support American transportation and energy security requirements. In no event shall this report be submitted after November 30, 1995. For purposes of construction activities related to this test strip the Administrator and the Director of the National Park Service shall make the necessary funds available in equal amounts from the Park and Parklands allocation for the Federal lands highway program.

(5) AUTHORIZATIONS.—The Administrator shall provide at least $3,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996 to carry-out the provisions of paragraph (2).

(6) ANNUAL REPORT TO CONGRESS.—On November 30 of each year, the Administrator shall report to Congress on progress in implementing the provisions of this subsection in the preceding fiscal year. For purposes of fiscal year 1992, the Administrator shall provide a report on proposed activities within one hundred eighty days of enactment of this section.

(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 307 of title 23, United States Code, is amended by adding subsection (g) as follows:

"(g) COLLABORATIVE RESEARCH AND DEVELOPMENT.—For purposes of encouraging innovative solutions to highway problems, and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments; foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the States of the United States. In carrying out this section, the Secretary may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a). The average Federal share in these agreements shall not exceed 50 percent except, where there is substantial public interest or benefit, the Secretary may approve a higher Federal level of participation. Cooperative research and development agreements shall recognize all directly related costs to the non-Federal partners including personnel, travel, hardware development, etc. The research, development, or utilization, of any technology pursuant to an agreement under the above provisions, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended.".

(g) Section 307(c) of title 23, United States Code, is amended by inserting a new paragraph (2) to read as follows:

"(2) In addition to the percentage provided in paragraph (1) of this subsection, not to exceed one-half of one per centum of sums apportioned under sections 104 and 144 shall be available for expenditure upon request of the State Highway Department to rural planning organizations designated by the State as being responsible for assisting the State in carrying out the provisions of section 135 of this title.".

SEC. 116. MAGNETIC LEVITATION TRANSPORTATION.

(a) DECLARATION OF POLICY.—Section 101(c) of title 23, United States Code, is amended to read as follows:

"(c) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

(b) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—(A) There is hereby established a National Magnetic Levitation Design Program to be managed jointly by Secretary and the Assistant Secretary of the Army for Civil Works (hereafter referred to as "the Assistant Secretary"). In carrying out such program, the Secretary and the Assistant Secretary shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency. The Secretary and the Assistant Secretary shall establish a National Maglev Joint Project Office (hereafter referred to as the "Maglev Project Office") to carry out such program, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions.

(B) STRATEGIC PLAN.—The Secretary and the Assistant Secretary, in consultation with appropriate Federal officials including the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop a national strategic plan for the design and construction of a national magnetic levitation surface transportation system. Such plan shall consider other modes of high speed surface transportation, including high speed rail. The plan shall be completed and transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives within eighteen months of the date of enactment of this Act.

(2) PHASE ONE GRANTS.—(A) Not later than three months after the date of enactment of this Act, any eligible participant may submit to the Maglev Project Office a proposal for research and development of a conceptual design for a maglev system and an application for a grant to carry out that research and development.

(B) Not later than six months after the date of enactment of this Act, the Secretary and the Assistant Secretary shall award grants for one year of research and development to no less than six applicants. If fewer than six complete applications have been received, grants shall be awarded to as many applicants as is practical.

(C) The Secretary and the Assistant Secretary may approve a grant under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights of way, the potential for the guideway design to be a national standard, and the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity: Provided, That, the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development, and agrees to provide for matching of the phase one grant at a 90 per centum Federal, 10 per centum non-Federal cost share.

(D) For purposes of this section, the term "eligible participant" means United States private businesses, United States public and private education and research organizations, Federal laboratories, and consortia of such businesses, organizations and laboratories.

(3) PHASE TWO GRANTS.—Within three months of receiving the reports under paragraph (2), the Secretary and the Assistant Secretary shall select not more than three participants to receive one-year grants for research and development leading to a final design for a maglev system. The Secretary and the Assistant Secretary may only award grants under this paragraph if they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into a national system, and if the applicant agrees to provide for matching of the phase two grant at a 80 per centum Federal, 20 per centum non-Federal cost share.

(4) PROTOTYPE.—(A) Within six months of receiving the final designs developed under paragraph (3), the Secretary and the Assistant Secretary shall select one design for development into a full scale prototype. Not more than three months after the selection of such design, the Secretary and the Assistant Secretary shall award one prototype construction grant to a State government, local government, organization of State and local governments, consortium of United States private businesses or any combination of these entities for the purpose of constructing a prototype maglev system in accordance with the selected design.

(B) Selection of the grant recipient under this paragraph shall be based on the following factors:

(i) The project shall utilize interstate highway rights-of-way.

(ii) The project shall have sufficient length to allow significant full speed operations between stops.

(iii) No more than 75 per centum of the cost of the project shall be borne by the United States.

(iv) The project shall be constructed and ready for operational testing within three years after the award of the grant.

(v) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(vi) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(vii) The project shall be located in an area that experiences climatic and other environmental conditions that are representative of such conditions in the United States as a whole.

(viii) The project shall be suitable for eventual inclusion in a national magnetic levitation system network.

(c) LICENSING.—

(1) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this Act shall be disclosed.

(2) COMMERCIAL INFORMATION.—The research, development and use of any technology developed pursuant to an agreement reached pursuant to this section, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701–3714). In addition, the Secretary and the Assistant Secretary may require any grant recipient to assure that research and development shall be performed substantially in the United States, and that the products embodying the inventions made under any agreement pursuant to this section or produced through the use of such inventions shall be manufactured substantially in the United States.

(d) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated to carry out this section shall remain available until expended.

(e) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports on progress made under this section to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(f) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, the requirements of chapter 1 of title 23, United States Code, shall apply to the provisions of this section.

SEC. 117. ACCESS TO RIGHTS-OF-WAY.

(a) AVAILABILITY OF RIGHTS-OF-WAY.—Subsection 142(g) of title 23, United States Code, is amended to read as follows:

"(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, highway and non-highway public mass transit facilities the Secretary shall authorize a State to make such lands and rights-of-way available with or without charge to a publicly or privately owned authority or company for such purposes.".

(b) AVAILABILITY OF AIRSPACE.—Section 156 of title 23, United States Code, is amended by adding before the period at the end of the first sentence the following: ": Provided, That the States may permit governmental use, use by public or private entities for passenger, commuter, or high speed rail, magnetic levitation systems, or other transit, utility use and occupancy where such use or occupancy is necessary for a transportation project allowed under this section, or use for transportation projects eligible for assistance under this title, with or without charge.".

(c) CONFORMING AMENDMENTS.—Section 142 of title 23, United States Code, is amended as follows:

(1) Paragraph (a)(1) is amended by striking "of the Federal-aid systems"; and by striking "project on any Federal-aid system" and inserting in lieu thereof "Surface Transportation Program project or as an Interstate construction project".

(2) Paragraph (a)(2) is repealed.

(3) Subsection (c) is repealed.

(4) Paragraph (e)(2) is repealed.

(5) Subsections (i) and (k) are repealed.

SEC. 118. REPORT ON REIMBURSEMENT FOR SEGMENTS CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

The Secretary shall update the findings of the report required by section 114 of the Federal-Aid Highway Act of 1956 to determine what amount the United States would pay to the States to reimburse the States for segments incorporated into the Interstate System that were constructed at non-Federal expense. The report required under this section shall be completed by October 1, 1993, and shall be transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 119. DISADVANTAGED BUSINESS ENTERPRISES.

(a) CONTINUATION OF CURRENT LAW.—Section 106(c)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking "titles I and III of this Act or obligated under" and inserting instead "the Surface Transportation Efficiency Act of 1991 or obligated under titles I and III of this Act and".

(b) ADJUSTMENT FOR INFLATION.—Section 106(c)(2)(A) of such 1987 Act is amended by striking "14,000,000" and inserting instead "15,370,000".

(c) STUDY.—The Comptroller General of the United States shall conduct a study of the Disadvantaged Business Enterprise program of the Federal Highway Administration (hereafter in this section referred to as the "DBE program"). The study shall include—

(1)(A) a determination of the percentage of disadvantaged business enterprises that have enrolled in the DBE program that have graduated from the DBE program after an enrollment period of 3 years;

(B) a determination of the number of disadvantaged business enterprises that have been enrolled in the DBE program for a period greater than 3 years; and

(C) a determination as to whether the graduation date any of the disadvantaged business enterprises described in subparagraph (B) should be accelerated;

(2) a determination of which State transportation programs meet the requirement under the DBE program for 10 per centum participation by minority-owned businesses and woman-owned businesses by contracting with out of State contractors in lieu of in-State contractors;

(3)(A) a determination as to whether adjustments in the DBE program could be made with respect to—

(i) Federal or State participation in training programs; and

(ii) Meeting capital needs and bonding requirements; and

(B) with respect to subparagraph (A), in the case where adjustments could be made, recommended adjustments that would continue to encourage minority participation in the program and would improve the success rate of the disadvantaged business enterprises;

(4) recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises participating under the DBE program; and

(5) a determination of additional costs incurred by the Federal Highway Administration in meeting the requirement for 10 per centum participation, as described in paragraph (2).

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report on the findings of the study described in subsection (a) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Public Works of the House of Representatives.

SEC. 120. AVAILABILITY OF FUNDS.

(a) Section 118 of title 23, United States Code, is amended to read as follows:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Account of the Highway Trust Fund to carry out this title shall be available for obligation when apportioned or allocated, or on October 1 of the fiscal year for

which they are authorized, whichever first occurs.

"(b) PERIOD OF AVAILABILITY DISCRETIONARY PROJECTS.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate Construction in a State shall remain available for obligation in that State until the close of the fiscal year in which they are apportioned or allocated. Sums not obligated by the close of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994 shall remain available in the State until expended: And provided further, That all sums apportioned or allocated to Massachusetts on or before October 1, 1989 shall remain available until expended.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds (other than interstate construction) apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of three years after the close of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

"(c) ALASKA AND PUERTO RICO.—Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, and other like purposes.

"(d) SET ASIDE FOR INTERSTATE DISCRETIONARY PROJECTS.—

"Before any apportionment is made under section 103(b)(5) for a fiscal year beginning after September 30, 1991 the Secretary shall set aside $200,000,000. Such funds shall be available for obligation by the Secretary under the following priorities:

"(1) FIRST.—For high cost projects which directly contribute to the completion of a segment of the interstate system which is not open to traffic;

"(2) SECOND.—For projects of high cost in relation to a State's total apportionment of funds; and

"(3) THIRD.—For projects with respect to which the Secretary may make payments under section 115 of title 23, United States Code.".

SEC. 121. PROGRAM EFFICIENCIES.

(a) Section 102 of title 23, United States Code, is amended to read as follows:

"§102. Program efficiencies

"(a) STANDARDS.—Except as provided in section 133(c), projects undertaken pursuant to the Surface Transportation Program must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards. The design and construction standards to be adopted for highways classified as principal arterials and designated as a part of the interim or permanent National Highway System shall be those approved by the Secretary in cooperation with the State highway departments and the American Association of State Highway and Transportation Officials. Any State may request that the Secretary no longer review and approve design and construction standards for any project other than a project on an Interstate highway or other multi-lane limited access control highways, except as provided in subsection (b), regarding resurfacing projects. After receiving any such request the Secretary shall undertake project review only as requested by the State.

"(b) PAVEMENT REHABILITATION PROJECTS.—Notwithstanding any other provision of this title, a State highway or transportation department may approve the design of a pavement rehabilitation project or highway resurfacing project on any project constructed pursuant to this title: Provided, That States comply with the requirements of all other applicable Federal laws and regulations.

"(c) HIGHWAY MAINTENANCE STANDARDS.—Notwithstanding any other provision of this title, a State highway or transportation department may establish maintenance standards for projects constructed pursuant to this title, which shall be subject to annual approval by the Secretary. The Secretary may not withhold project approval pursuant to section 106 if a State is meeting maintenance standards approved by the Secretary under this section.

"(d) HOV PASSENGER REQUIREMENTS.—A State highway or transportation department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes: Provided, That no fewer than two occupants may be required. For the purposes of this title and the Surface Transportation Efficiency Act of 1991, motorcycles and bicycles shall not be considered single occupant vehicles. Nothing in this title or the Surface Transportation Efficiency Act of 1991 shall be construed as altering the provisions or effect of section 163 of the Highway Improvement Act of 1982.

"(e) ENGINEERING COST REIMBURSEMENT.—A State shall refund to the Highway Trust Fund all Federal funds for preliminary engineering for any project if the project has not yet advanced to construction or acquisition of right-of-way within ten years of receipt of such Federal funds.".

(b) HISTORIC AND SCENIC VALUES.—Section 109 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(p) Where a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or where such project is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) and section 133(c) if such project is designed to standards that allow for the preservation of these values: Provided, That such project is designed with mitigation measures to allow preservation of these values and ensure safe operation of the project.".

(c) DELEGATION OF RESPONSIBILITIES.—Section 302 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(c) At the request of the Governor of any State, the Secretary is authorized to permit the highway or transportation department of a municipality of over 1 million population within the State to perform all such duties and responsibilities regarding projects undertaken within the municipality as are delegated to it that would otherwise be the responsibility of the State highway or transportation department. For purposes of this subsection, the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(d) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 102. Authorizations.".

and inserting in lieu thereof:

"Sec. 102. Program efficiencies.".

SEC. 122. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) NEW REQUIREMENTS.—Section 153 of title 23, United States Code, is amended to read as follows:

"§153. Use of safety belts and motorcycle helmets

"(a) STATE LAWS.—

"(1) FISCAL YEAR 1995.—If, at any time in fiscal year 1994 a State does not have in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs 1.5 per centum of the amount apportioned to such State for fiscal year 1995 under section 104(b)(1).

"(2) AFTER FISCAL YEAR 1995.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) has a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs 3 per centum of the amount apportioned to such State for the succeeding fiscal year under section 104(b)(1). A State which is required to expend funds for highway safety programs under this subsection shall expend such funds for purposes eligible under section 402; section 152, except repavement; and section 130.

"(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under this subsection shall be 100 per centum.

"(4) AVAILABILITY.—Notwithstanding the requirements of section 118, funds subject to be set aside under this subsection shall be available only in the year for which they were apportioned, and shall thereafter lapse. For purposes of making expenditures of such funds, a State shall use an amount of the obligation authority distributed for the Surface Transportation Program for the fiscal year in which the set aside apportionments were made equal to the amount required to be expended under this subsection.

"(b) GRANTS TO STATES.—

"(1) STATE ELIGIBILITY.—The Secretary may make grants to a State in accordance with this section if such State has in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(2) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(A) To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(B) To train law enforcement officers in the enforcement of State laws described in paragraph (1).

"(C) To monitor the rate of compliance with State laws described in subsection (a).

"(D) To enforce State laws described in paragraph (1).

"(3) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary

may require to ensure that such State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's two fiscal years preceding the date of the enactment of this section.

"(4) FEDERAL SHARE.—A State may not receive a grant under this section in more than three fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(A) in the first fiscal year such State receives a grant, 75 per centum of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(B) in the second fiscal year such State receives a grant, 50 per centum of the cost of implementing in such traffic safety program; and

"(C) in the third fiscal year such State receives a grant, 25 per centum of the cost of implementing in such fiscal year such traffic safety program.

"(5) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 per centum of the amount apportioned to such State for fiscal year 1990 under section 402.

"(6) ELIGIBILITY FOR GRANTS.—

"(A) A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(B) A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 75 per centum; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 50 per centum.

"(C) A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 85 per centum; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 70 per centum.

"(c) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsection (b) (2) and (3), a State shall measure compliance with State laws described in subsection (b)(1) using methods which conform to guidelines to be issued by the Secretary ensuring that such measurements are accurate and representative.

"(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) The term 'child restraint system' means a device which is designed for use in a passenger vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

"(2) The term 'motorcycle' means a motor vehicle with motive power which is designed to travel on not more than 3 wheels in contact with the surface.

"(3) The term 'passenger vehicle' means a motor vehicle with motive power which is designed for transporting 10 individuals or less, including the driver, except that such term shall not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) The term 'safety belt' means—

"(A) with respect to open-body vehicles and convertibles, and occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

"(e) AUTHORITY.—All provisions of chapter 1 of this title that are applicable to Surface Transportation Program funds, other than provisions relating to the apportionment formula, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(b) STUDY.—The Secretary shall conduct a study of restrained and unrestrained individuals injured in motor vehicle crashes and of helmeted and non-helmeted motorcyclists injured in motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in: The severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; and mortality and morbidity outcomes. Of the amounts authorized to be appropriated for fiscal year 1992 to carry out the requirements of this section, not less than $5,000,000 shall be available until expended to carry out this subsection. The Secretary shall report the results of this study to Congress not later than 40 months after the date of enactment of this Act. Approval by the Secretary of Transportation of the payment of such sums shall establish a contractual obligation of the United States to pay such sums.

(c) REGULATIONS.—Not later than one hundred and eighty days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out section 153 of title 23, United States Code.

(d) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 153. [Repealed.].".

and inserting in lieu thereof:

"Sec. 153. Use of Safety Belts and Motorcycle Helmets.".

SEC. 123. CREDIT FOR NON-FEDERAL SHARE.

(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act and title 23, United States Code, those funds that are generated and used by public, quasi-public and private agencies to build, improve, or maintain transportation infrastructure that serves the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such transportation infrastructure without Federal funds.

(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject.

SEC. 124. ACQUISITION OF RIGHTS-OF-WAY.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108(c)(3) of title 23, United States Code, is amended by striking out "ten" and inserting in lieu thereof "twenty".

(b) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of title 23, United States Code, is further amended by adding subsection (d) as follows:

"(d) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Federal funds may be used to participate in payment of the costs incurred by a State for the acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, which are subsequently incorporated into a project, and the costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values. The Federal share payable of the costs shall be eligible for reimbursement out of funds apportioned to the State when the rights-of way acquired are incorporated into a project eligible for surface transportation funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(1) any land acquired, and relocation assistance provided complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

"(2) title VI, of the Civil Rights Act of 1964 has been complied with;

"(3) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and that the acquisition is certified by the Governor as consistent with the State plans prior to the acquisition;

"(4) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this Act;

"(5) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary, which provide for the consideration of the environmental impacts of various alternatives;

"(6) prior to the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

"(7) prior to the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.".

(c) CONFORMING AMENDMENTS.—Section 108 of title 23, United States Code, is further amended—

(1) in subsection (a), by striking out "on any of the Federal-aid highway systems, including the Interstate System," each of the two places it appears;

(2) in subsection (c)(2), by striking "on any Federal-aid system"; and

(3) in subsection (c)(3) by striking "on the Federal-aid system of which such project is to be a part".

SEC. 125. TRANSPORTATION IN PARKLANDS.

(a) IN GENERAL.—Not later than twelve months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park System. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands. Such study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) AUTHORIZATION OF APPROPRIATIONS.—From within the sums authorized to be appropriated for subsection 202(d) of title 23, United States Code, $300,000 shall be made available to carry out this section.

SEC. 126. TRAFFIC CONTROL STANDARDS.

The Secretary shall revise the Manual of Uniform Traffic Control Devices to include—

(a) a standard for a minimum level of retroreflectivity that must be maintained for pavement markings and signs, which shall apply to all roads open to public travel;

(b) a standard to define the roads that must have a center line or edge lines or both, provided that in setting such standard the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.

SEC. 127. USE OF ASPHALT RUBBER PAVEMENT.

(a) Beginning on the date three years after the date of enactment of this Act, the Secretary of Transportation shall make no grant to any State under title 23 of the United States Code, other than projects or grants for safety where the Secretary determines that the principal purpose of the project is an improvement in safety that will result in a significant reduction in or avoidance of accidents, for any year unless the State shall have submitted to the Secretary a certification that the asphalt pavement laid in the State in such year and financed in whole or part by such grants shall satisfy the minimum utilization requirement for asphalt rubber pavement established by this section. The Secretary may modify the minimum utilization requirement for asphalt rubber pavement during a phase-in period, if the Secretary determines that such phase-in period is necessary to develop production and application facilities for asphalt rubber pavement. Such phase-in period shall not extend beyond the date six years after the date of enactment of this section. The Secretary may increase the minimum utilization requirement for asphalt rubber pavement to be used in federally-assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires.

(b) The Secretary may set aside the provisions of this section for any three-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to paragraphs (1) and (2), that there is reliable evidence indicating—

(1) that manufacture, application or use of asphalt rubber pavement substantially increases risks to human health or the environment as compared to the risks associated with conventional pavement;

(2) that asphalt rubber pavement cannot be recycled to the same degree as conventional pavement; or

(3) that asphalt rubber pavement does not perform adequately as a material for the construction or surfacing of highways and roads.

(c) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary, with the concurrence of the Administrator with respect to determinations made under subsections (b)(1) and (b)(2). Any determination made with respect to subsection (b)(3) may be made for specific States or regions considering climate, geography and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt rubber pavement in such State or region.

(d) The minimum utilization requirement for asphalt rubber pavement in federally-assisted highway projects shall be not less than an average of six pounds of rubber derived from scrap tires for each one ton of finished asphalt pavement used in federally-assisted highway projects in the State. The Secretary may grant a State credit toward the minimum utilization requirement for volumes of asphalt rubber pavement used in other road and construction projects and for asphalt rubber pavement containing rubber at rates less than or greater than six pounds per ton: Provided, That the total amount of rubber used in asphalt pavement containing rubber in the State in any year is at least equivalent to the amount that would be used if 100 per centum of the pavement used in federally-assisted highway projects in the State contained six pounds of rubber per ton of finished pavement.

(e) The Secretary shall establish a minimum utilization requirement for asphalt rubber pavement less than the minimum otherwise required by subsection (d) in a particular State, upon the request of such State and with the concurrence of the Administrator of the Environmental Protection Agency, if the Secretary determines that there is not a sufficient quantity of scrap tires available prior to disposal in the State to meet the minimum utilization requirement established by subsection (d) and each of the other recycling and processing uses, including retreading, for which scrap tires are required.

(f) For purposes of this section—

(1) the term "process" means the utilization of tires to reclaim material or energy value;

(2) the term "recycle" means to process scrap tires to produce usable materials other than fuels;

(3) the term "asphalt rubber pavement" means any hot mix asphalt paving mixture which contains rubber derived from scrap tires, is produced using the wet or dry process and is used for a pavement base, surface course, or stress absorbing membrane interlayer;

(4) the term "stress absorbing membrane interlayer" means a process of spray applying asphalt rubber pavement prior to the overlayment of conventional asphalt pavement to reduce reflective cracking and to waterproof the roadway.

(g) The Secretary shall, in cooperation with the Administrator of the Environmental Protection Agency, conduct a program of research to determine—

(1) the public health and environmental risks associated with the production and use of asphalt rubber pavement;

(2) the performance of the asphalt rubber pavement under various climate and use conditions; and

(3) the degree to which asphalt rubber pavement can be recycled.

The research program required by this subsection shall be completed not later than three years after the date of enactment of this Act. The Secretary is authorized to use funds pursuant to sections 103(b) and 115 (making amendments to section 307 of title 23, United States Code) to carry out the research required by this subsection.

SEC. 128. RIGHT-OF-WAY REVOLVING FUND.

Section 108 of title 23, United States Code, is amended—

(a) in subsection (a) by striking out "on any of the Federal-aid highway systems, including the Interstate System" in each of the two places it appears; by striking out "State highway department" in each of the two places it appears and inserting in lieu thereof "State transportation department"; and by inserting "or passenger rail facility" after "road"; and

(b) in subsection (c) by inserting "and passenger rail facilities" after "highways" in paragraph (2); by striking "on any Federal-aid system" in paragraph (2); by striking "State highway department" and inserting in lieu thereof "State transportation department" in paragraph (2); by inserting "or passenger rail facility" after "highway" in each of the two places it appears in paragraph (3); and by striking "on the Federal-aid system of which such project is to be a part" in paragraph (3).

SEC. 129. SCENIC AND HISTORIC HIGHWAYS.

There is hereby created a National Scenic and Historic Byways Program, and an Office of Scenic and Historic Byways within the Federal Highway Administration, which Office shall administer the program. The Office shall provide technical assistance to the States and shall provide grants for the planning, design and development of State scenic byway programs. The Secretary, in consultation with the Secretaries of Agriculture, Interior, and Commerce, and other interested parties, shall establish criteria for roads to be designated as part of an All American Roads program. The Secretary shall designate the roads to be included in the All American Roads program. Roads considered for such designation shall be nominated by the States and Federal agencies. For all State-owned roads nominated by Federal agencies, the State shall concur in the nomination. The sum of $5,000,000 per year is authorized to be appropriated for the purposes of carrying out this section. The Secretary shall establish criteria for allocating such funds to the States.

SEC. 130. NATIONAL HIGHWAY SYSTEM.

(a) Within two years of the date of enactment of this Act, the Secretary shall submit to the Congress a proposal for a National Highway System to provide an interconnected system of principal arterial routes which will serve major population centers, ports, airports, international border crossings, and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel. The National Highway System shall consist of highways on the Interstate System and other specified urban and rural principal arterials, including toll facilities.

(b) During the two year period prior to the submission of the proposed National Highway System to Congress, the interim National Highway System shall consist of the Interstate System and such urban and rural principal arterials (including toll facilities) as designated by each State. Each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1992 and 1993 on such interim National Highway System.

(c) A final National Highway System submitted to Congress by the Secretary shall be designated in accordance with guidelines issued by the Secretary which provide for equitable allocation of mileage among States. The final system shall be designated by each State in consultation with regional and local officials, with

the approval of the Secretary. Ninety days after submission of the proposed National Highway System to Congress, each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1994 through 1996 on the system so designated in the report to Congress or on such system as is modified by an Act of Congress. Amounts authorized by section 103(b)(1) of this Act do not include any amounts transferred to the Surface Transportation Program from the Interstate Maintenance Program, or any other program.

(d) If a State certifies to the Secretary that apportionments required to be spent on the National Highway System pursuant to this section are in excess of amounts needed to adequately maintain the National Highway System routes within the State as determined by the Bridge Management System and Pavement Management System under section 135(a) of title 23, as amended by this Act, the State may transfer up to 20 percent of these amounts for any project eligible under the Surface Transportation Program.

SEC. 131. DEFINITIONS.

(a) NEW DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended adding definitions for "carpool project", "hazard elimination", "magnetic levitation system", "metropolitan area", "open to public travel", "operational improvement", "public authority", "public lands highway", "railway-highway crossing", "reconstruction", and "transportation enhancement activities" as follows:

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'hazard elimination' means the correction or elimination of hazardous locations, sections, or elements, including roadside obstacles and unmarked or poorly marked roads which may constitute a danger to motorists, bicyclists or pedestrians.

"The term 'magnetic levitation system' means any facility (including vehicles) using magnetic levitation for transportation of passengers or freight that is capable of operating at high speeds, and capable of operating along Interstate highway rights of way.

"The term 'metropolitan area' means an area so designated pursuant to section 134.

"The term 'open to public travel' means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulations other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

"The term 'operational improvement' means a capital improvement other than (1) a reconstruction project; (2) additional lanes except high occupancy vehicle lanes; (3) interchange and grade separations; or (4) the construction of a new facility on a new location. The term includes the installation of traffic surveillance and control equipment; computerized signal systems; motorist information systems, integrated traffic control systems; incident management programs; transportation demand management facilities, strategies, and programs; high occupancy vehicle preferential treatments including the construction of high occupancy vehicle lanes; and spot geometric and traffic control modifications to alleviate specific bottlenecks and hazards.

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate or maintain toll or toll-free facilities.

"The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel, or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by, a public authority and open to public travel.

"The term 'railway-highway crossing project' means any project for the elimination of hazards of railway-highway crossings, including the protection or separation of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

"The term 'reconstruction' means the addition of travel lanes and the construction and reconstruction of interchanges and over crossings, including acquisition of right-of-way where necessary.

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, highway safety improvement projects other than repaving projects, railway-highway crossing projects, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities including historic railroad facilities and canals, preservation of abandoned railway corridors including the conversion and use thereof for pedestrian or bicycle trails, control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.".

(b) CONFORMING AMENDMENTS.—

(1) The definition for "highway" is amended by inserting "scenic easements" after "and also includes".

(2) The definitions for "Federal-aid highways", "Federal-aid system", "Federal-aid primary system", "Federal-aid secondary system", "Federal-aid urban system", "forest highway", "project", and "urban area" are repealed.

(3) The definition for "Indian reservation roads" is amended by striking ", including roads on the Federal-aid systems,".

(4) The definition for "park road" is amended by inserting ", including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles," before "that is located in".

SEC. 132. FUNCTIONAL RECLASSIFICATION.

A functional reclassification, which shall be updated periodically, should be undertaken by each State (as that term is defined in section 101 of title 23, United States Code), the United States Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands, by September 30, 1992, and shall be completed by September 30, 1993 in accordance with guidelines that will be issued by the Secretary. The functional reclassification shall classify all public roads (as that term is defined in section 101 of title 23, United States Code).

SEC. 133. REPEAL OF CERTAIN SECTIONS OF TITLE 23, UNITED STATES CODE.

(a) The following portions of title 23, United States Code, are hereby repealed, including the chapter analyses relating thereto—

(1) section 105, relating to programs;

(2) section 117, relating to certification acceptance;

(3) section 122, relating to bond retirement;

(4) section 126, relating to diversion of funds;

(5) section 137, relating to parking facilities;

(6) section 146, relating to carpools;

(7) section 147, relating to priority primary projects;

(8) section 148, relating to a national recreational highway;

(9) section 150, relating to urban system funds;

(10) section 155, relating to lake access highways;

(11) section 201, relating to authorizations;

(12) section 212, relating to the Inter-American Highway;

(13) section 216, relating to the Darien Gap Highway;

(14) section 309, relating to foreign countries;

(15) section 310, relating to civil defense;

(16) section 311, relating to strategic highway improvements;

(17) section 312, relating to military officers;

(18) section 318, relating to highway relocation; and

(19) section 320, relating to bridges on Federal dams.

SEC. 134. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 23, UNITED STATES CODE.—Title 23, United States Code, is amended as follows:

(1) Section 103 is amended as follows:

(A) Subsections (a), (b), (c), (d), and (g) are repealed.

(B) Paragraph (e)(1) is amended by striking "All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section.".

(C) Paragraph (e)(4)(B) is amended by striking the last two sentences and inserting instead "Each highway project constructed under this paragraph shall be subject to the provisions of this title applicable to highway projects constructed under the Surface Transportation Program.".

(D) Paragraph (e)(4)(E)(i) is amended by striking "for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year" and by inserting in lieu thereof "until expended".

(E) Paragraphs (e)(4)(H)(i) and (e)(4)(H)(iii) are amended by striking "and 1991" the three places it appears and inserting instead "1991, 1992, 1993, 1994 and 1995".

(F) Subsection (f) is amended to read as follows:

"(f) The Secretary shall have authority to approve in whole or in part the Interstate System, or to require modifications or revisions thereof.".

(2) Section 104 is amended as follows:

(A) Subsection (b)(6) is repealed.

(B) Subsections (c) and (d) are repealed.

(3) Section 106 is amended as follows:

(A) Subsection (a) is amended by striking "117" and inserting instead "133".

(B) Subsection (b) is repealed.

(C) Subsection (d) is amended by striking "on any Federal-aid system".

(4) Section 109 is amended as follows:

(A) Subsection (a) is amended by striking "on any Federal-aid system".

(B) Subsection (c) is repealed.

(C) Subsection (i) is amended by striking "on a Federal-aid system" and "on any Federal-aid system"; and by striking "the Federal-aid system on which such project will be located".

(D) Paragraph (l)(1) is amended by striking "on any Federal-aid system".

(5) Section 112 is amended by striking subsection (f).

(6) Section 113 is amended—

(A) by striking "on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System,";

(B) by striking "upon the Federal-aid systems,"; and

(C) by striking "on any of the Federal-aid systems".

(7) Section 114 is amended as follows:

(A) Subsection (a) is amended by (1) striking "located on a Federal-aid system" and inserting instead "constructed under this chapter" and (2) striking "117" and inserting "133".

(B) Paragraph (b)(3) is amended by striking "located on a Federal-aid system" and inserting instead "under this chapter".

(8) Section 115 is amended as follows:

(A) The title of subsection (a) is amended by striking "URBAN, SECONDARY," and inserting instead "SURFACE TRANSPORTATION PROGRAM,".

(B) Subparagraph (a)(1)(A)(i) is amended by striking "section 104(b)(2), section 104(b)(6)" and inserting instead "section 104(b)(1)".

(C) The title of subsection (b) is amended by striking "AND PRIMARY".

(D) Paragraph (b)(1) is amended (i) by striking "the Federal-aid primary system or"; (ii) by striking "104(b)(1) or"; and (iii) by striking ", as the case may be,".

(9) Section 116 is amended as follows:

(A) Subsection (a) is amended by striking "The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system".

(B) Subsection (b) is amended by striking "on the Federal-aid secondary system, or within a municipality," and inserting instead "within a county or municipality".

(10) Section 120 is amended as follows:

(A) Subsection (c) is amended by striking the last sentence.

(B) Subsection (f) is amended by striking "project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable on a project on such system as provided in subsections (a) and (c) of this section" and inserting instead "project on the Interstate System shall not exceed the Federal share payable on a project on that system as provided in subsection (c) of this section and any project off the Interstate System shall not exceed the Federal share payable as provided in subsection (a) of this section".

(C) Subsection (k) is amended by striking "for any Federal-aid system" and inserting instead "under section 104"; by striking ", and 155 of this title and for those priority primary routes under section 147"; and by striking "and for funds allocated under the provisions of section 155".

(D) Subsection (m) is repealed.

(11) Section 121(c) is amended by inserting "For projects obligated under section 106" in two places before the word "No"; and by striking "located on a Federal-aid system".

(12) Section 123 is amended by striking "on any Federal-aid system".

(13) Section 124 is amended by striking "of the Federal-aid systems" and inserting in lieu thereof "public roads or bridges except roads functionally classified as local or rural minor collector".

(14) Section 125 is amended as follows:

(A) Subsection (b) is amended (i) by striking "highways on the Federal-aid highway systems, including the Interstate System" and inserting instead "public roads except roads functionally classified as local or rural minor collector" and (ii) by striking "authorized on the Federal-aid highway systems, including the Interstate System" and inserting instead "authorized on public roads except roads functionally classified as local or as rural minor collector".

(B) Subsection (c) is amended by striking ", whether or not such highways, roads, or trails are on any of the Federal-aid highway systems".

(15) Section 130 is amended by striking subsections (a), (e), (f), and (h), and by renumbering the remaining sections accordingly.

(16) Section 139 is amended as follows:

(A) Subsection (a) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating".

(B) Subsection (b) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating"; and (iv) by striking "section" in the last sentence and inserting instead "subsection".

(C) Subsection (c) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "restoration, and reconstruction" and inserting instead "and restoration".

(17) Section 140 is amended as follows:

(A) Subsection (a) is amended by striking "on any of the Federal-aid systems,".

(B) Subsection (c) is amended by striking "104(a)" and inserting instead "104(b)".

(18) Section 141(b) is amended by striking "on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system" and inserting instead "on public roads except roads functionally classified as local or rural minor collector".

(19) Section 152 is amended by striking subsections (d) and (e).

(20) Section 157 is amended as follows:

(A) Subsection (b) is amended (i) by striking "primary, secondary, Interstate, urban" and inserting instead "Interstate, Surface Transportation Program" and (ii) by striking the period at the end of the last sentence and inserting instead "and section 104(a) of the Surface Transportation Efficiency Act of 1991.".

(B) Subsection (d) is amended by striking "154(f) or".

(21) Paragraph (a)(2) of section 158 is amended by striking "104(b)(2), 104(b)(5), and 104(b)(6)" and inserting instead "and 104(b)(5)".

(22) Section 215 is amended as follows:

(A) Clause (2) of subsection (c) is amended by inserting at the beginning "except as provided in section 129".

(B) Subsection (e) is repealed.

(C) Subsection (f) is amended by (1) striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(23) Section 217 is amended as follows:

(A) Subsection (a) is amended by striking ", (2) and (6)", and by striking "paragraphs" and inserting in lieu thereof "paragraph".

(B) Subsection (b) is amended by striking ", (2) and (6)", and by striking "paragraphs" and inserting in lieu thereof "paragraph".

(24) Section 302(b) is amended by striking ", for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof".

(25) Section 304 is amended by striking "the Federal-aid highway systems, including the Interstate System" and inserting instead "Federal-aid highways".

(26) Section 315 is amended by striking "sections 204(d), 205(a), 206(b), 207(b), and 208(c)" and inserting instead "section 205(a)".

(27) Section 317(d) is amended by striking "on a Federal-aid system" and inserting instead "with Federal aid".

(28) Subsection (d) of section 402 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to the Federal-aid system".

(29) Subsection (g) of section 408 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to Federal-aid systems".

(b) AMENDMENTS TO THE HIGHWAY SAFETY ACT OF 1978.—Subsection (i) of section 209 of the Highway Safety Act of 1978 is amended by (1) striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(c) AMENDMENTS TO THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—(1) Section 411 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid primary system highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(B) Subsection (c) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(C) Subsection (e) is amended by striking "Federal-aid Primary System highways" and "Primary System highways" and inserting instead in two places "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(2) Section 412(a) of the Surface Transportation Assistance Act of 1982 is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(3) Section 416 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking "Federal-aid highway" in two places and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Surface Transportation Efficiency Act of 1991"; and by striking "Federal-aid Primary System highway" and inserting instead "highway which was on the Federal-aid Primary System on the date of enactment of the Surface Transportation Efficiency Act of 1991".

(B) Subsection (d) is amended by striking "Federal-aid highway" and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Surface Transportation Efficiency Act of 1991".

(d) AMENDMENTS TO TITLE 42, UNITED STATES CODE.—Section 5122(8)(B) of title 42, United States Code, is amended by striking "any non-Federal-aid street, road or highway" and inserting instead "any street, road or highway not eligible for emergency relief under title 23, United States Code.".

(e) OPERATION LIFESAVER.—Whenever apportionments are made under section 104(a) of title 23, United States Code, the Secretary shall deduct such sums as the Secretary deems necessary, not to be less than $250,000 per fiscal year, for carrying out Operation Lifesaver.

(f) TECHNICAL CORRECTION TO PUBLIC LAW 101-516.—Section 333 of Public Law 101-516 is amended by—

(1) inserting the following after "SEC. 333.":

"Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§159. Revocation or suspension of the driver's license of individuals convicted of drug offenses

"(a)(1)";

(2) by striking the second sentence of such section; and

(3) Section 104 of title 23, United States Code, is amended by inserting subsections (a)(2), (a)(3), (b) and (c) of such section as those subsections existed in title 23, United States Code, immediately prior to enactment of Public Law 101-516.

SEC. 135. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a recodification of title 23, United States Code, related Acts and statutes and submit the recodification to the Congress for consideration.

SEC. 136. TIMBER BRIDGE AND TIMBER RESEARCH PROGRAM.

(a) The Secretary of Transportation is hereby authorized to establish a Timber Bridge Construction Discretionary Grant Program.

(1) Of the amount authorized per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 by section 103(b)(3) of the Surface Transportation Efficiency Act of 1991 (relating to the bridge program), $5,000,000 shall be available for obligation at the discretion of the Secretary for such program. The Federal share payable on any bridge construction project carried our under this section shall be 80 per centum of the cost of such construction.

(2) States may submit applications for construction grants in such form as required by the Secretary, who shall select and approve such grants based on the following criteria:

(A) bridge design shall have both initial and long term structural and environmental integrity;

(B) bridge design should utilize timber species native to the State or region;

(C) innovative design should be utilized that has the possibility of increasing knowledge, cost effectiveness, and future use of such design; and

(D) environmental practice for preservative treated timber should be utilized and construction techniques which comply with all environmental regulations.

(b) The Secretary of Transportation is hereby authorized to establish a Program of Research on Wood Use in Transportation Structures.

(1) Of the amount authorized per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 by section 103(b)(10) of the Surface Transportation Efficiency Act of 1991 (relating to Federal Highway Administration Research Programs), $1,000,000 shall be available for obligation at the discretion of the Secretary for such program. The Federal share payable on any research grant shall be 100 per centum.

(2) The Secretary of Transportation, through the Federal Highway Administration, may make grants to, or contract with States, other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity for research on any one of the following areas:

(A) timber bridge systems which involve development of new, economical bridge systems;

(B) development of engineering design criteria for structural wood products which improve methods for characterizing lumber design properties;

(C) preservative systems which demonstrate new alternatives, and current treatment processes and procedures optimized for environmental quality in the application, use and disposal of treated wood.

(D) alternative transportation system timber structures demonstrating the development of applications for railing, sign, and lighting supports, sound barriers, culverts, retaining walls in highway applications, docks, fresh and salt water marine facilities and railway bridges; and

(E) rehabilitation measures which demonstrate effective, safe, reliable methods for rehabilitating existing structures.

(3) The Secretary, through the Federal Highway Administration, shall assure that the information and technology resulting from research is transferred to State and local transportation departments and other interested parties.

SEC. 137. GROSS VEHICLE WEIGHT RESTRICTION.

(a) The fourth sentence of subsection 127(a) of title 23, is amended by adding after "thereof" the following: ", other than vehicles or combinations subject to subsection (d) of this section,".

(b) GROSS VEHICLE WEIGHT.—Section 127 of title 23, United States Code, is amended by adding a new subsection (d), to read as follows:

"(d)(1) A longer combination vehicle may continue to operate if and only if the Secretary of Transportation determines that the particular longer combination vehicle configuration was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual, continuing lawful operation on or before June 1, 1991, or pursuant to section 335 of Public Law 101-516. All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991, except in Wyoming in which additional vehicle configurations not in actual operation on June 1, 1991, may be authorized by State law, unless otherwise directed, not later than the general election date in 1992, provided such vehicle configurations do not exceed 117,000 pounds gross vehicle weight and comply with the single axle, tandem axle, and bridge formula limits set forth in section 127(a) of title 23, United States Code. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311, 2312, and 2316). Any State further restricting or prohibiting the operations of longer combination vehicles shall, within 30 days, advise the Secretary of Transportation of such action and the Secretary shall publish a notice of such action in the Federal Register.

"(2) Within sixty days of the date of enactment of this Act, the Secretary shall publish in the Federal Register a complete list of those State statutes and regulations and of all limitations and conditions, including, but not limited to routing-specific configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection. No statute or regulation shall be included on the list published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual, continuing operation on or before June 1, 1991. Except as modified pursuant to the fourth sentence of paragraph (1) of this subsection, the list shall become final within a further sixty days after publication in the Federal Register. Longer combination vehicles may not operate on the National System of Interstate and Defense Highways except as provided in the list.

"(3) For purposes of this section, a longer combination vehicle is any combination of a truck tractor and two or more trailers or semitrailers which operate on the National System of Interstate and Defense Highways at a gross vehicle weight greater than eighty-thousand pounds.

"(4) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any commercial motor vehicle combination prohibited under section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j)).".

(c) Section 141(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j)).".

SEC. 138. VEHICLE LENGTH RESTRICTION.

Section 411 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311) is amended by adding at the end the following new subsection:

"(j)(1) No State shall allow by statute, regulation, permit, or any other means, the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, pursuant to subsection (e) of this section, of any commercial motor vehicle combination with two or more cargo carrying units (not including the truck tractor), whose cargo carrying units exceed, as determined by the Secretary—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulations of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, continuing lawful operation (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the rear of the last cargo carrying unit.

"(3) Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraph (1) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416 (a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial motor vehicle combinations shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(4) Within 60 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a list of length limitations, as determined by the Secretary, applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. The list shall become final within 60 days after publication in the Federal Register. Commercial motor vehicle combinations prohibited under para-

graph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid Primary System highways as designated by the Secretary. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(5) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code.

"(6) Nothing in this subsection shall be interpreted to affect in any way the operation of commercial motor vehicles having only one cargo carrying unit. Nor shall this subsection be interpreted to affect in any way the operation in a State of commercial motor vehicles with two or more cargo carrying units if such vehicles were in actual, continuing operation (including continuing seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo carrying section of a single unit truck.".

SEC. 138A. NATIONAL MAXIMUM SPEED LIMIT.

(a) Section 141 of title 23, United States Code, is amended by striking subsection (a).

(b) Section 154 of title 23, United States Code, is amended to read as follows:

§154. National maximum speed limit

"(a) SPEED LIMIT—A State shall not have (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour other than highways on the Interstate System located outside of an urbanized area, (2) a maximum speed limit on any highway within its jurisdiction on the Interstate System located outside of an urbanized area in excess of sixty-five miles per hour, (3) a maximum speed limit on any highway within its jurisdiction in excess of sixty-five miles per hour located outside of an urbanized area which is; (A) constructed to interstate standards in accordance with section 109(b) and connected to an interstate highway posted at sixty-five miles per hour; (B) a divided four-lane fully controlled access highway designed or constructed to connect to an Interstate highway posted at sixty-five miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of sixty-five miles per hour; or (C) constructed to geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and designated by the secretary as part of the Interstate System in accordance with section 139(c) or (4) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using that portion of the highway, if on November 1, 1973, that portion of the highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of that vehicle including any load thereon. Clause (4) shall not apply to any portion of a highway, during the time that the condition of the highway, weather, an accident or other condition creates a temporary hazard to the safety of traffic on that portion of a highway.

"(b) SPEED DATA.—Each State shall submit to the Secretary speed-related data as the Secretary determines by rule is necessary for each twelve-month period ending on September 30. The data shall be collected in accordance with criteria to be established by the Secretary and shall include data on citations and travel speeds on public highways with speed limits posted at or above fifty-five miles per hour.

"(c) MOTOR VEHICLE DEFINED.—As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

"(d) CERTIFICATION.—Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with this section. The Secretary shall not approve any project under section 106 in any State which has failed to certify in accordance with this subsection. In preparing a certification under this subsection, the State shall consider the speed-related data it submits to the Secretary under subsection (b).".

SEC. 139. ROAD SEALING ON RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend funds apportioned under this section from the Highway Trust Fund for the purpose of road sealing projects.".

SEC. 140. EMERGENCY RELIEF ADVANCES.

The Secretary shall advance emergency relief funds to the State of Washington for the replacement of a bridge on the Interstate System damaged by November 1990, storms notwithstanding the provisions of section 125 of title 23, United States Code: Provided, -That this provision shall be subject to the Federal Share provisions of section 120, title 23, of the United States Code. The State of Washington shall repay such advances to the extent that a final court judgment declares that damage to such bridges was a result of human error.

SEC. 140A. HIGHWAY CONSTRUCTION TRAINING.

Subsection (b) of section 140 of title 23, United States Code is amended by adding at the end thereof: "Notwithstanding any other provision of law, not to exceed one-fourth of 1 per centum of funds apportioned to a State for the Surface Transportation Program or the Bridge Program, may be available to carry out this subsection upon a request by the State highway department.".

SEC. 140B. EROSION CONTROL GUIDELINES.

(a) The Secretary of Transportation shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part by this Act.

(b) Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) Guidelines developed under subsection (a) shall be consistent with the program of section 319 of the Clean Water Act and section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 140C. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 1, of title 23, United States Code is amended by adding the following new section at an appropriate place:

"SEC. . INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include:

"(1) develop, monitor, assess, and domestically disseminate information about foreign highway transportation innovations that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) inform other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions and other such activities;

"(4) offer those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects. The costs for assistance shall be recovered under the terms of each project;

"(5) conduct studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of enactment, and in Greece and Turkey.

"(b) COOPERATION.—The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the United States Government, State or local agency, authority, association, institution, corporation (profit or nonprofit) foreign government, multi-national institution, or any other organization or person.

"(c) FUNDS.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

SEC. 140D. EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code, is amended by adding the following new section at an appropriate place.

"SEC. . EDUCATION AND TRAINING PROGRAM.

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support services that will (1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with specific road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; (2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and (3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers. The Secretary shall provide technical and financial support for the centers.".

SEC. 140E. NATIONAL HIGHWAY INSTITUTE.

Section 321 of title 23, United States Code, is amended to read as follows:

"SEC. 321. NATIONAL HIGHWAY INSTITUTE.

"(a) ESTABLISHMENT AND AUTHORITY TO CONDUCT TRAINING.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute hereinafter referred to as the 'Institute'. The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. Programs may include, but are not limited to courses in modern developments, techniques, management, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance, contract administration, motor carrier activities and inspection. The Secretary shall administer the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways through the Institute.

"(b) SET ASIDE.—Not to exceed one-fourth of 1 percent of all Surface Transportation Program funds apportioned to a State under this title shall be available for expenditure by the State highway department for payment of not to exceed 75 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State and local highway employees authorized by this section shall be provided (1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or (2) in any case where education and training are to be paid for under subsection (b) by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, individuals, and the Institute: Provided, That private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) TRAINING FELLOWSHIPS; COOPERATION; COLLECTION OF FEES.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section including but not limited to the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other national or international entity, or person. The Institute is authorized to establish and collect fees from any entity and place them in a special account for the purpose of this section.

"(e) FUNDS.—The funds required to carry out this section may be from the sums deducted for administration purposes under section 104(a). The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this section. The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected and be administered by the Secretary as a fund which shall be available until expended.

"(f) DEFINITION.—The term 'national and international entity' as used in this section is defined to mean any government or non-government, public or private, profit or nonprofit body, institution, corporation, agency, association, authority, State, Country, Province, City, County, local jurisdiction, or individual.".

SEC. 140F. USE OF ZEBRA MUSSELS IN INFRASTRUCTURE.

(a) Within 180 days of the date of enactment of this Act, the Secretary of Transportation shall begin studies to determine the feasibility of utilizing zebra mussels, Dreissena polymorpha, in aggregate or other materials used to construct transportation infrastructure. Within three years of the date of enactment of this Act the Secretary shall submit a report to the Congress on the feasibility of utilizing zebra mussels in aggregate or other materials used to construct transportation infrastructure. The Secretary shall continue feasibility studies beyond this date if necessary to determine long-term performance of materials incorporating zebra mussels.

(b) If the studies required under subsection (a) demonstrate the feasibility of using zebra mussels as a construction material, beginning four years after the enactment of this Act, the Secretary of Transportation shall make no grant to any State under title 23 of the United States Code, other than projects or grants that will result in a significant reduction in or avoidance of accidents, for any year unless the State shall have submitted to the Secretary a certification that zebra mussels have been utilized in construction of transportation infrastructure in all applications in which any increase in cost due to using zebra mussels is equal to or less than the cost of disposal of the zebra mussels in conformance with all applicable environmental regulations. The Secretary may establish a phase-in period, not to extend beyond the date seven years after the date of enactment of this Act, if the Secretary determines that such a phase-in period is necessary to establish technology or production facilities for utilizing zebra mussels in transportation infrastructure applications.

(c) The Secretary may set aside the provisions of this section for any three-year period on a determination that there is reliable evidence indicating—

(1) that zebra mussels do not perform satisfactorily as a material for the construction or surfacing of roads or other infrastructure construction applications; or

(2) that utilization of zebra mussels results in increased risk to the safety of motorists, construction workers, or maintenance personnel.

(d) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary. Any determination made with respect to subsection (c) may be made for specific States or regions considering climate, geography, and other factors that may be unique to the State or region.

(e) The Secretary, at the request of a State, may exclude a certain percentage of the federally assisted highways in such State from these requirements, if the Secretary determines that there is not a sufficient volume of zebra mussels in the waters within or contiguous to the State to constitute a nuisance.

SEC. 140G. INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established the Commission to Promote Investment in America's Infrastructure (hereafter referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of seven members appointed as follows:

(A) two members appointed by the Majority Leader of the Senate;

(B) two members appointed by the Speaker of the House of Representatives;

(C) one member appointed by the President of the United States;

(D) one member appointed by the Minority Leader of the Senate; and

(E) one member appointed by the Minority Leader of the House of Representatives.

(2) Individuals appointed to the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(c) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study for the purpose of determining the feasibility and desirability of creating a type of infrastructure security which would permit the investment of pension funds in funds utilized to design, plan, and construct infrastructures in the United States. The Commission can include recommendations as to private sector as well as other recommendations for innovating public policy alternatives to assist infrastructure investment at all levels of government.

(d) REPORT.—Within 180 days following the date of the enactment of this Act, the Commission shall report its findings and recommendations to the Congress and to the President of the United States.

(e) EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(f) COMMISSION STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix compensation of an executive director, a general counsel, and such additional staff as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent for the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) AUTHORIZATION.—There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the Commission to carry out its functions.

(h) TERMINATION.—Effective 180 days following the date of submission of the report under subsection (d), this section shall be deemed repealed.

SEC. 140H. REGULATORY INTERPRETATION.

Section 635.410 of title 23, Code of Federal Regulations, and any similar regulation, ruling, or decision shall be applied as if to include coating.

SEC. 140I. CLEAR GASOLINE REQUIREMENT.

No refiner may enter into the common carrier pipeline system any gasoline that would preclude the addition of a legally waivered fuel or fuel additive unless the gasoline contains a legally waivered fuel or fuel additive in a quantity sufficient to meet the requirements of regulations issued pursuant to section 211 of the Clean Air Act (42 U.S.C. 7545).

SEC. 140J. NATIONAL DEFENSE HIGHWAYS.

(a) Upon certification by the Secretary, after consultation with the Secretary of Defense, that a particular highway or portion of such highway, located outside the territory of the United States, is important to the national defense, up

to $20,000,000, as determined by the Secretary, shall be made available for the purposes of this section in fiscal year 1993, 1994, 1995, and 1996, from the Interstate Construction Program funds authorized under section 103(b)(5) of this Act.

(b) Funds made available under this section shall be available only for the reconstruction of any highway or portion thereof certified under subsection (a), and shall remain available until expended.

SEC. 140K. ALLOCATION FORMULA STUDY.

(a) The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to section 115 of this Act, shall conduct a thorough study and recommend to the Congress within two years after the date of enactment a fair and equitable apportionment formula for the allocation of Federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

(b) The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

SEC. 140L. STORM WATER PERMIT REQUIREMENTS.

(a) Notwithstanding the requirements of sections 402(p)(2) (B), (C), and (D) of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall not—

(1) require any municipality with a population of less than 100,000 to submit any part I general permit application or individual application (as described in a rulemaking published in the Federal Register on November 16, 1990) for a storm water discharge associated with any airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to May 18, 1992 or any part II general permit application for such discharge prior to May 18, 1993, unless such permit is required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act;

(2) require any municipality with a population of less than 100,000 to submit any permit application for a storm water discharge associated with any industrial activity other than an airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to October 1, 1992, unless such permit is required pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, and any deadlines established pursuant to regulation or Public Law 102-27 associated with such permit application requirements shall be delayed until after such date;

(3) enforce the requirements of any permit issued to a municipality with a population of 100,000 or greater solely for storm water discharges, other than permits associated with industrial activities owned or operated by the municipality and permits required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, prior to October 1, 1992.

(b) For purposes of this section an uncontrolled sanitary landfill is a landfill or open dump, whether in operation or closed, which does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(c) This section shall not be interpreted, construed or applied to affect any permit requirement or application deadlines for a storm water discharge established pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act or any permit for a storm water discharge associated with an industrial activity not owned or operated by a municipality.

(d) The Administrator shall modify permit application deadlines applicable to storm water discharges associated with industrial activities owned or operated by municipalities with populations of 100,000 or greater to assure that such deadlines are coincident with application deadlines for systemwide permits required for such municipalities and associated with storm water discharges from other than industrial facilities.

SEC. 140M. INVESTIGATION AND REPORT.

(a) The Secretary of Transportation shall conduct an investigation into the feasibility of prescribing rules with respect to multi-lane, limited access, Federal-aid highways to do the following:

(1) Prohibit trucks weighing in excess of 10,000 pounds gross weight from using the furthest left lane.

(2) Restrict all such trucks to the furthest right lane, except that such trucks may use the lane adjacent to the furthest right lane to pass.

(b) In conducting the investigation described in subsection (a), the Secretary of Transportation shall consider innovative ways to separate truck traffic from other vehicle traffic on highways taking into consideration the effect on safety, congestion management, other relevant issues, and the cost of each such innovation.

(c) The Secretary of Transportation shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report setting forth the findings of the study conducted under subsection (a), within one year from the date of enactment of this Act.

SEC. 140N. REPORT ON THE USE OF OXYGENATED FUELS IN CERTAIN CITIES AND METROPOLITAN STATISTICAL AREAS.

Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, and in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a report on the feasibility and effectiveness of requiring, during the period from October 1 through March 31, in all cities and metropolitan statistical areas (as established by the Office of Management and Budget) with a population of 250,000 or more, the use of oxygenated fuels (with a percentage of 2.7 or greater).

SEC. 140O. YOUTH JOBS HIGHWAY BEAUTIFICATION PROGRAM.

(a) AUTHORITY.—A State may use not to exceed 0.2 percent of the amounts appropriated to such State under section 104 of title 23, United States Code, to establish a State program to employ eligible economically disadvantaged individuals during the employment period to perform highway landscaping and beautification activities.

(b) ELIGIBLE ECONOMICALLY DISADVANTAGED INDIVIDUALS.—To be eligible to be employed under a State program established under subsection (a), an individual shall—

(1) have an income, or be a member of a family with a family income, that is below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for and individual or a family of similar size; and

(2) be a resident of the State.

Preference shall be given to individuals meeting the requirements of this subsection who are between the ages of 18 and 20.

(c) EMPLOYMENT ACTIVITIES.—Individuals may be employed under a State program established under subsection (a) to perform highway landscaping and beautification activities within the State that may include—

(1) activities directed at improving the scenic landscaping at highway rights-of-way and rest areas;

(2) trash pick-up and collection activities along roadsides;

(3) participation in programs related to traveler information (including signage); and

(4) other appropriate activities.

(d) ADMINISTRATION.—

(1) STATE CONTRIBUTION.—To be eligible to use the amounts referred to in subsection (a) to establish a State program, a State shall agree, with respect to the costs incurred by the State in carrying out such program, to make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount equal to 5 percent of such costs.

(2) LIMITATION.—A State shall not use in excess of 5 percent of amounts made available to such State under subsection (a) to administer the State program.

(3) FEDERAL OVERSIGHT.—The State official responsible for administering the program established by the State under subsection (a) shall annually prepare and submit to the Secretary of Transportation a report containing a description of such program, including—

(A) the costs incurred in implementing such program;

(B) the number of individuals employed under such program; and

(C) the types of activities performed by such individuals.

(e) NONDISPLACEMENT AND GRIEVANCE PROCEDURE.—The grievance procedures and nondisplacement requirements contained in sections 176(f) and 177(b) of the National and Community Service Act of 1990 shall apply to State programs established under this section, insofar as they are applicable, except that all references to "this title" in such sections shall be deemed to be a reference to this section.

(f) EMPLOYMENT PREFERENCE.—For the purposes of employing individuals pursuant to a program established under subsection (a), each State shall give preference to individuals who were formerly employed by such State, and who suffered loss of employment, within the previous year for reasons other than cause.

SEC. 140P. INTERSTATE TRANSPORTATION AGREEMENTS AND COMPACTS.

CONSENT AND APPROVAL OF CONGRESS.—The consent and approval of Congress are hereby given to the several States to negotiate, enter into, and carry out agreements or compacts for the purpose of establishing policies and priorities, including allocation of funds, to resolve interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

SEC. 140Q. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 E-W Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section

103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 E-W Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(5) FUNDING PROVISIONS FOR SUBSTITUTE PROJECTS.—Notwithstanding any other provision of law, the source of funding for any transit substitute projects approved under subsection (a) shall be the Mass Transit Account of the Highway Trust Fund. All other funding provisions for any approved substitute projects shall be as provided in section 103(e)(4) of title 23, United States Code.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer Interstate construction apportionments to its national highway system in amounts equal to or less than the costs for additional work on sections of the Interstate System that have been built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate cost estimate.

SEC. 140R. MONTANA-CANADA TRADE.

The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana: Provided, That such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

SEC. 140S. LEVEL OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years beginning with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall, subject to the availability of appropriations, make an apportionment to each State in which the rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for each of fiscal years 1993, 1994, 1995, and 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall, subject to the availability of appropriations, make a bonus apportionment to each State equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment made to any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposable income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate apportionments under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the apportionments to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.

"(g) Funds authorized to be appropriated for bonus apportionment under this section shall be available only for projects authorized under chapter 1 of this title, including provisions which provide contract authority.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) ADDITIONAL DONOR STATE BONUS AMOUNTS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of additional donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3)(A) The additional amount provided under this subsection for a fiscal year shall be apportioned only after bonus apportionments under section 159 of title 23, United States Code, to the extent of their availability, have first been made to the States.

(B) The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(C) The additional apportionment under this subsection shall be subject to the provisions of chapter 1 of title 23, United States Code, including provisions which provide contract authority.

(d) OBLIGATION LIMITATIONS.—(1)(A) Notwithstanding section 104 of this Act, for each of the fiscal years 1993, 1994, 1995 and 1996, the Secretary shall distribute among the States the limitations imposed by section 104(a) of this Act by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways (other than sums authorized for section 159 of title 23, United States Code and sums authorized by subsection (c) of this section) which are apportioned or allocated to each State for such fiscal year bear to the total of such sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year until 100 percent has been distributed.

(B) The Secretary shall distribute the limitation remaining after the distribution in subparagraph (A) among the States entitled to apportionments of sums authorized by section 159 of title 23, United States Code, and sums authorized by subsection (c) of this section, in the ratio which such apportionments and allocations for each such State bear to the total of such apportionments and allocations for all such States.

(2) Whenever the limitation made available for a fiscal year is insufficient to provide 100 percent of the distribution under paragraph (1)(B), then—

(A) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received for section 159 of title 23, United States Code, and

(B) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received under subsection (c) of this section.

(e) INAPPLICABILITY OF OBLIGATION LIMITATION TO EMERGENCY RELIEF.—Limitations in section 104 of this Act shall not apply to obligations for emergency relief pursuant to section 125 of title 23, United States Code.

(f) DEFINITION.—For purposes of this section, the term "State" has the meaning given to such term in section 101 of title 23, United States Code.

SEC. 140T. NATIONAL POLICY FOR INFRASTRUCTURE REUSE.

(a) STUDY AND REPORT.—(1) Section 307 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Not later than 12 months after the date of the enactment of the Surface Transportation Efficiency Act of 1991, the Secretary shall conduct a study of methods of facilitating the reuse of industrial manufacturing facilities.

"(2) In conducting the study described in paragraph (1), the Secretary shall consult with the heads of such departments and agencies of the Federal Government as the Secretary determines to be appropriate to ascertain regulatory, technical and other problems or constraints associated with the reuse of industrial manufacturing facilities.

"(3) Upon completion of the study described in paragraph (1), the Secretary shall submit a report to the appropriate committees of Congress on the findings of the study, including a summary of any information submitted to the Secretary by the head of a department or agency pursuant to paragraph (2).

"(4) For fiscal year 1992, an amount not to exceed $200,000 shall be taken out of the administration and research funds authorized by section 104 of this title for the purpose of carrying out the provisions of this subsection.".

(2) Section 104 of title 23, United States Code, is amended by striking "authorized by subsections (a) and (b) of section 307" and inserting "authorized by subsections (a), (b), and (g) of section 307".

SEC. 140U. DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK.

(a) DECLARATION OF NONNAVIGABILITY.—

(1) IN GENERAL.—Subjection to subsections (b), (c) and (d), the area described in paragraph (2) is declared to be nonnavigable waters of the United States.

(2) AREA DESCRIBED.—The area referred to in paragraph (1) is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York).

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918,003 west 9806,753:

(1) Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44'-20" east, having a radius of 390.00 feet and a central angle of 22°-05'-50", 150.41 feet to a point of tangency;

(2) Thence north 71°-38'-30" east, 42.70 feet;

(3) Thence south 11°-05'-40" east, 33.45 feet;

(4) Thence south 78°-54'-20" west, 0.50 feet;

(5) Thence south 11°-05'-40" east, 2.50 feet;

(6) Thence north 78°-54'-20" east, 0.50 feet;

(7) Thence south 11°-05'-40" east, 42.40 feet to a point of curvature;

(8) Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 18°-37'-40", 83.85 feet to a point of compound curvature;

(9) Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°-39'-00", 101.19 feet to another point of compound curvature;

(10) Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°-32'-03", 97.89 feet to a point of curve intersection;

(11) Thence south 13°-16'-57" east, 50.86 feet to a point of curve intersection;

(12) Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°-16'-57" west, having a radius of 6.00 feet and a central angle of 180°-32'-31", 18.91 feet to a point of curve intersection;

(13) Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°-37'-11" east, having a radius of 313.40 feet and a central angle of 4°-55'-26", 26.93 feet to a point of curve intersection;

(14) Thence south 70°-41'-48" west, 36.60 feet;

(15) Thence north 13°-45'-00" west, 42.87 feet;

(16) Thence south 76°-15'-00" west, 15.00 feet;

(17) Thence south 13°-45'-00" east, 44.33 feet;

(18) Thence south 70°-41'-45" west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936;

(19) Thence north 63°-08'-48" west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein;

(20) Thence north 81°-08'-00" west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet;

The following three courses being along the lines of George Sollan Park as shown on map prepared by the city of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp.

(21) Thence north 77°-35'-20" east, 231.35 feet;

(22) Thence north 12°-24'-40" west, 33.82 feet;

(23) Thence north 54°-49'-00" east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941;

(24) Thence north 12°-24'-40" west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.28 feet to the point or place of beginning.

(b) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a)(1) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable discretion, finds—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project, and

(2) after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed project is not in the public interest.

(c) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a)(1) shall apply only to those portions of the area described in subsection (a)(2) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a)(1), all activities conducted in the area described in subsection (a)(2) are subject to all Federal statutes and regulations which may otherwise be applicable to such activities, including as may be applicable—

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899,

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254), and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) EXPIRATION DATE.—The declaration made in subsection (a)(1) shall expire—

(1) on the date which is 6 years after the date of enactment of this Act if work on the proposed project to be performed in the area described in subsection (a)(2) is not commenced before that date, and

(2) on the date which is 20 years after the date of the enactment of this Act, for any portion of the area described in subsection (a)(2) which on that date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(e) PROPOSED PROJECT DEFINED.—For purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (a)(2) and commonly referred to as Pier A; and

(2) the area surrounding that structure.

SEC. 140V. SENSE OF THE SENATE.

It is the sense of the Senate that the conferees on this Act should consider section 159 of title 23, United States Code as it appears in amendment No. 295 as amended so as to determine each State's total apportionments under section 159 of title 23, United States Code, in a way that reflects each State's total effort for highways as described in amendment No. 334, and including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

SEC. 141. SHORT TITLE.

This part may be cited as the "National Recreational Trails Fund Act of 1991".

SEC. 142. CREATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Recreational Trails Trust Fund', consisting of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available for making expenditures to carry out the purposes of the National Recreational Trails Fund Act of 1991.".

(b) DEPOSIT OF UNREFUNDED HIGHWAY TRUST FUND MONEYS.—Section 9503(c) of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM THE TRUST FUND FOR NONHIGHWAY RECREATIONAL FUEL TAXES.—

"(A) TRANSFER TO NATIONAL RECREATIONAL TRAILS TRUST FUND.—The Secretary shall annually pay from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by the Secretary) equivalent to 0.3 per centum of total Highway Trust Fund receipts, as adjusted by the Secretary pursuant to subparagraph (B).

"(B) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Within 1 year after the date of enactment of this Act, the Secretary shall, based on studies of nonhighway recreational fuel usage in the various States, adjust the percentage of receipts paid into the National Recreational Trails Trust Fund to correspond to the revenue received from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—The amount of an adjustment in the percentage stated in clause (ii) shall be not more than 10 per centum of that percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—The Secretary shall make use of data on off-highway recreational vehicle

registrations and use in making adjustments under clauses (i) and (ii).

"(C) DEFINITIONS.—For the purposes of this paragraph—

"(i) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term 'nonhighway recreational fuel taxes' means the taxes under sections 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to fuel used as nonhighway recreational fuel.

"(ii) NONHIGHWAY RECREATIONAL FUEL.—The term 'nonhighway recreational fuel' means—

"(I) fuel used in vehicles and equipment on recreational trails or back country terrain, including use in vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain; and

"(II) fuel used in campstoves and other outdoor recreational equipment.".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund.".

SEC. 143. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) IN GENERAL.—The Secretary, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this Act are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is three years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this Act as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 per centum of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this Act;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this Act; and, if any such funds remain unexpended, for—

(D) research on methods to accommodate multiple trail uses and increase the compatibility of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 per centum of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 per centum of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;

(B) $50,000,000 for fiscal year 1993;

(C) $54,000,000 for fiscal year 1994;

(D) $56,000,000 for fiscal year 1995;

(E) $56,000,000 for fiscal year 1996;

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this Act for—

(A) in an amount not exceeding 7 per centum of the amount of moneys received by the State, administrative costs of the State;

(B) in an amount not exceeding 5 per centum of the amount of moneys received by the State, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation plan, construction of new trails crossing Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this Act for—

(A) condemnation of any kind of interest in property; or

(B)(i) construction of any recreational trail on National Forest System lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Forest land and resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved land and resource management plan;

(ii) construction of any recreational trail on Bureau of Land Management lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Bureau of Land Management resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved management plans; and

(C) upgrading, expanding or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this Act as grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 per centum of the moneys received annually by a State under this Act shall be reserved for uses relating to motorized recreation, and not less than 30 per centum of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this Act in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 per centum of moneys received under this Act in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than three million five hundred thousand acres, and in which nonhighway recreational fuel use accounts for less than 1 per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection

upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—At the option of each State, moneys made available pursuant to this Act may be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within four years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreation trail pursuant to this Act is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this Act diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6)(C)(ii) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

SEC. 144. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be eleven members of the advisory committee, consisting of—

(1) Eight members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) Hiking,

(B) Cross country skiing,

(C) Off-highway motorcycling,

(D) Snowmobiling,

(E) Horseback riding,

(F) All terrain vehicle riding,

(G) Bicycling,

(H) Four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) one member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) one member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least five of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of three years, except that the members filling five of the eleven positions shall be initially appointed for terms of two years, with subsequent appointments to those positions extending for terms of three years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trail-side and trail-head facilities that qualify for funding under this Act; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this Act.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBURSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 143(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than four years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this Act, and contains recommendations for changes in Federal policy to advance the purposes of this Act.

PART C—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

SEC. 151. SHORT TITLE.

This Part may be cited as the "Intelligent Vehicle-Highway Systems Act of 1991".

SEC. 152. PURPOSE AND SCOPE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation (hereinafter referred to in this title as the "Secretary") shall conduct a program to promote and facilitate the implementation of Intelligent Vehicle-Highway Systems as a component of the Nation's surface transportation systems. The goals of such program shall include, but not be limited to—

(1) the widespread implementation of Intelligent Vehicle-Highway Systems to enhance the capacity, efficiency, and safety of the Federal-aid highway system, including as an alternative to additional physical capacity of that system;

(2) the enhancement, through more efficient use of the Federal-aid highway system, of the efforts of the several States to attain air quality goals, as established by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), as amended by Public Law 101-549 (104 t. 2399);

(3) the enhancement of safe and efficient operation of the Nation's highway systems;

(4) the development and promotion of Intelligent Vehicle-Highway Systems and an Intelligent Vehicle-Highway Systems industry in the United States, utilizing authority provided under section 307 of title 23, United States Code;

(5) the reduction of societal, economic, and environmental costs associated with traffic congestion;

(6) the enhancement of United States industrial and economic competitiveness and productivity, by improving the free flow of people and commerce, and by establishing a significant United States presence in an emerging field of technology;

(7) the development of a technology base for Intelligent Vehicle-Highway Systems and the establishment of the capability to perform demonstration experiments, utilizing existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

(b) COORDINATION.—The Secretary shall lead and coordinate an Intelligent Vehicle-Highway Systems program and shall foster its use as a key component of the Nation's surface transportation systems. As appropriate, the Secretary shall consult with the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies, in carrying out the purposes of this title. The Secretary shall strive to transfer federally owned or patented technology to State and local governments and to the United States private sector. As appropriate, the Secretary shall maximize the involvement of the United States private sector, colleges and universities, and State and local governments in aspects of such programs, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(c) STANDARDS.—The Secretary shall develop and implement standards and protocols to promote the widespread use and evaluation of Intelligent Vehicle-Highway Systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote compatibility among Intelligent Vehicle-Highway Systems technologies implemented throughout the several States. The Secretary is authorized to make use of existing standards-setting organizations as the Secretary determines appropriate.

(d) EVALUATION.—The Secretary shall establish guidelines and requirements for the evaluation of field and related operational tests carried out pursuant to section 155 of this Act.

(e) INFORMATION CLEARINGHOUSE.—The Secretary shall establish a repository for technical and safety data collected as a result of federally sponsored projects pursuant to this title, and shall make such information readily available, upon request, at an appropriate cost to all users, except for proprietary information and data. In carrying out the requirements of this subsection, the Secretary may delegate this responsibility, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation. For the purposes of carrying out the requirements of this subsection, such entity would be eligible for Federal aid, as specified in this title.

SEC. 153. ADVISORY COMMITTEE.

The Secretary is authorized to utilize one or more advisory committees in carrying out his responsibilities under this title. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and funding provided for any such committee shall be available from monies appropriated for advisory committees as specified in relevant appropriations Acts, and from funds allocated for research, development, and implementation activities in connection with the Intelligent Vehicle-Highway Systems program under this title.

SEC. 154. STRATEGIC PLAN, IMPLEMENTATION, AND REPORT TO CONGRESS.

(a) STRATEGIC PLAN.—

(1) STRATEGIC PLAN.—Not later than twelve months following the date of the enactment into law of this title, the Secretary shall formulate, and submit to Congress, a strategic plan for the Intelligent Vehicle-Highway Systems program under this title.

(2) SCOPE OF STRATEGIC PLAN.—In preparing such plan, the Secretary shall—

(A) specify the goals, objectives, milestones of such program and how specific projects relate to these, including consideration of the five-, ten-, and twenty-year timeframes for specified goals and objectives;

(B) detail the status and challenges and non-technical constraints facing the program;

(C) chart a course of action necessary to achieve the program's goals and objectives;

(D) provide for the development of standards and protocols to promote and ensure compatibility in the implementation of Intelligent Vehicle-Highway Systems technologies; and

(E) provide for the accelerated use of advanced technology to reduce traffic congestion along heavily populated and traveled corridors.

(b) IMPLEMENTATION REPORTS.—

(1) IMPLEMENTATION REPORTS.—Not later than twenty-four months after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Congress a report on the implementation of the strategic plan required in subsection (a) of this section.

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing such report, the Secretary shall—

(A) analyze the possible and actual accomplishments of Intelligent Vehicle-Highway Systems projects in achieving congestion, safety, environmental, and energy conservation goals, as described in this title;

(B) specify cost-sharing arrangements made, including the scope and nature of Federal investment, in any research, development, or implementation project under such program;

(C) assess non-technical problems and constraints identified as a result of each such implementation project; and

(D) include, if appropriate, any recommendations for legislation or modification to the strategic plan required in subsection (a) of this section.

(c) REPORT TO CONGRESS.—

(1) REPORT TO CONGRESS.—In cooperation with the Attorney General and the Secretary of Commerce, the Secretary shall prepare and submit, within twenty-four months following the date of enactment of this title, a report to Congress addressing the non-technical constraints and barriers to all aspects of the innovation of such program under this title.

(2) SCOPE OF REPORT TO CONGRESS.—In preparing such report, the Secretary shall—

(A) address antitrust, privacy, educational and staffing needs, patent, liability, standards and other constraints, barriers, or concerns relating to such program;

(B) recommend legislation and other administrative action necessary to further the Intelligent Vehicle-Highway Systems program under this title; and

(C) address ways to further promote industry and State and local government involvement in such program.

(3) UPDATE OF REPORT.—Within five years following such date of enactment, the Secretary shall prepare an update of such report.

SEC. 155. TECHNICAL, PLANNING, AND PROJECT ASSISTANCE.

(a) TECHNICAL ASSISTANCE AND INFORMATION.—The Secretary is authorized to provide planning and technical assistance and information to State and local governments seeking to use and evaluate Intelligent Vehicle-Highway Systems technologies. In doing so, the Secretary shall assist State and local officials in developing provisions for implementing areawide traffic management control centers, necessary laws to advance such systems, the infrastructure for such existing and evolving systems, and other necessary activities to carry out the Intelligent Vehicle-Highway Systems program under this title.

(b) PLANNING GRANTS.—Subject to the availability of funds, the Secretary is authorized to make grants for feasibility and planning studies to be conducted by State and local governments. Such grants shall be made at such time, in such amounts, and subject to such conditions as the Secretary may determine.

(c) TRAFFIC MANAGEMENT SYSTEMS.—Any interagency traffic and incident management entity, including independent public authorities or agencies, contracted to a State department of transportation for the implementation of traffic management systems of designated corridors, is eligible to receive Federal transportation funds under this title through the appropriate State department of transportation.

(d) FUNDING OF PROJECTS.—In deciding which projects or operational tests relating to Intelligent Vehicle-Highway Systems to fund utilizing authority provided under section 307 of title 23, United States Code, the Secretary shall—

(1) give the highest priority to those projects that would contribute to the national goals and objectives specified in the Intelligent Vehicle-Highway Systems strategic plan required pursuant to section 154 of this title, minimize the relative percentage of Federal contributions to total project costs, but not including Federal-aid funds;

(2) seek to fund operational tests that advance the current State of knowledge and, where appropriate, build on successes achieved in previously funded work involving such programs; and

(3) require that operational tests utilizing Federal funds pursuant to this Act have a written evaluation of the IVHS technologies investigated and key outcomes of the investigation, consistent with the guidelines developed pursuant to section 152(d) of this Act.

(e) AUTHORITY TO USE FUNDS.—Each State and eligible local entity is authorized to use funds provided under this Act for implementation purposes in connection with the Intelligent Vehicle-Highway Systems Program.

SEC. 156. APPLICATIONS OF TECHNOLOGY.

(a) CONGESTED CORRIDORS PROGRAM.—The Secretary shall designate transportation corridors in which application of Intelligent Vehicle-Highway Systems will have particular benefit and, through financial and technical assistance, shall assist in the implementation of such systems. In designating such corridors, the Secretary shall focus on automatic vehicle identification, electronic toll collection, highway advisory radio, variable message signage, advanced traveler information systems, and other steps that would reduce congestion, enhance safety, and promote a smoother flow of traffic throughout the corridors.

(b) PRIORITIES.—In designating and providing funding for such corridors, the Secretary shall allocate not less than 50 per centum of the funds appropriated pursuant to this section to eligible State or local entities for application in not less than three but not more than ten corridors with the following characteristics:

(1) traffic density (as a measurement of vehicle miles traveled per road mile) at least 1.5 times the national average;

(2) severe or extreme nonattainment for ozone, as determined by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act, as amended by Public Law 101-549 (104 t. 2399);

(3) a variety of types of transportation facilities, such as highways, bridges, tunnels, toll and non-toll;

(4) inability to significantly expand existing surface transportation facilities;

(5) a significant mix of passenger, public transportation, and commercial motor carrier traffic;

(6) complexity of traffic patterns; and

(7) potential contribution to the implementation of the Secretary's strategic plan developed pursuant to section 154 of this title.

(c) ADDITIONAL FUNDING.—The balance of funds provided under this section shall be allocated to eligible State or local entities for application in corridors with a significant number of the characteristics listed in subsection (a) of this section.

SEC. 157. AUTHORIZATIONS.

(A) CONGESTED CORRIDORS PROGRAM.—For the congested corridors program under section 156, within funds authorized to be deducted pursuant to section 104(a) of title 23, United States Code, there is authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(b) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated under this Act shall remain available until expended.

(c) RESERVATION OF FUNDS.—Of the funds provided pursuant to subsection (a) of this section, not less than 5 per centum shall be reserved for innovative, high-risk operational or analytical tests that do not attract substantial non-Federal commitments but are determined by the Secretary as having significant potential to help accomplish long-term goals established by the strategic plan prepared pursuant to section 154 of this Act.

(d) FEDERAL SHARE PAYABLE.—The Federal share payable on account of activities authorized pursuant to this title shall not exceed 80 per centum of the cost. The Secretary may waive this restriction for projects undertaken pursuant to subsection (c) of this section.

SEC. 158. DEFINITIONS.

For the purposes of this part, the term—

(a) "Intelligent Vehicle-Highway Systems" means the development or application of electronics, communications, or information processing, including, but not limited to, advanced traffic management systems, advanced traveler information systems, and advanced vehicle communications systems, used singly or in combination to improve the efficiency and safety of surface transportation systems; and

(b) "corridor" means any major transportation route which includes some contribution of

closely parallel limited access highways, major arterials, or transit lines; and, with regard to traffic incident management, it may also refer to more distant transportation routes that can serve as viable options to each other in the event of traffic incidents.

PART D—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

SEC. 161. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

TITLE II—HIGHWAY SAFETY

PART A—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION

SEC. 201. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 202. DEFINITIONS.

As used in this part, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer; and

(4) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

(a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) NATIONAL DRIVER REGISTER ACT.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: ", not to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA HIGHWAY SAFETY PROGRAMS.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 204. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

The Secretary shall expend the sums authorized under section 203(e) as the Secretary deems necessary for the purpose of conducting research on intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

SEC. 205. SIDE IMPACT PROTECTION FOR VEHICLES.

(a) AMENDMENT OF FMVSS STANDARD 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) EXTENSION TO MULTIPURPOSE PASSENGER VEHICLES.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such Standard 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

SEC. 206. AUTOMOBILE CRASHWORTHINESS DATA.

(a) STUDY AND INVESTIGATION.—

(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger car and multipurpose passenger vehicle makes and models.

(2) CONTENTS OF STUDY.—Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) REPORT BY NATIONAL ACADEMY OF SCIENCES.—Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) PUBLIC COMMENT.—Within 60 days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles.

(5) DETERMINATION BY SECRETARY.—Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) RULE ON COMPARATIVE CRASHWORTHINESS RATING SYSTEM.—

(1) PROMULGATION.—If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) REVIEW BY CONGRESSIONAL COMMITTEES.—The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Rep-

resentatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) RULE ON PROVIDING CRASHWORTHINESS INFORMATION TO PURCHASERS.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

SEC. 207. STANDARDS COMPLIANCE.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

SEC. 208. INVESTIGATION AND PENALTY PROCEDURES.

(a) INVESTIGATION PROCEDURES.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) CIVIL PENALTY PROCEDURES.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

SEC. 209. MULTIPURPOSE PASSENGER VEHICLE SAFETY.

(a) FINDINGS.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) CLASSIFICATION REVIEW.—

(1) RULEMAKING PROCEEDING.—In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) CLASSIFICATION CONSISTENCY.—Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

SEC. 210. ROLLOVER PROTECTION.

The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

SEC. 211. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 212. IMPACT RESISTANCE CAPABILITY OF BUMPERS.

(a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) AUTHORITY TO REQUIRE HIGHER STANDARD.—Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

SEC. 213. CHILD BOOSTER SEATS.

(a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title

49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 214. AIRBAG REQUIREMENTS.

(a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driverside airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—

(1) DEADLINES FOR INSTALLATION.—Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) TREATMENT OF AIRBAG REQUIREMENTS.—For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

SEC. 215. STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.

Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs;

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; and

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

SEC. 216. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 217. DARKENED WINDOWS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issues of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after such date of enactment.

SEC. 218. GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger car to use seatbelts;

(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent

seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

SEC. 219. METHODS OF REDUCING HEAD INJURIES.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 220. PEDESTRIAN SAFETY.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) Deadlines.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 221. DAYTIME RUNNING LIGHTS.

(a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

SEC. 222. ANTILOCK BRAKE SYSTEMS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 223. HEADS-UP DISPLAYS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 224. SAFETY BELT DESIGN.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 225. CRITERIA FOR STANDARDS.

Any standard established under a proceeding required by section 210, 217, 219, 220, 221, 222, 223, or 224 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

SEC. 226. IMPAIRED DRIVING ENFORCEMENT.

(a) SHORT TITLE.—This section may be cited as the "Impaired Driving Prevention Act of 1991".

(b) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection and deterrence of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons by reason of their operation of a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing persons under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 percent or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in

the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger areas.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO OTHER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

"(h) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for the fiscal year ending September 30, 1992, and $50,000,000 per fiscal year for the fiscal years ending September 30, 1993, September 30, 1994, September 30, 1995, and September 30, 1996, respectively. Sums authorized by this subsection shall remain available until expended.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (b) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

(d) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

"405. Impaired driving enforcement programs.".

PART B—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION

SEC. 231. SHORT TITLE.

This part may be cited as the "Motor Carrier Safety Assistance Program Reauthorization Act of 1991". 232.

SEC. 232. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) AMENDMENT TO TITLE 23, U.S.C.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§412. Motor carrier safety assistance program

"(a) GRANTS.—The Secretary is authorized to make grants to eligible States for the development or implementation, or both, of programs for—

"(1) the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(2) effective enforcement of State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

A State shall be eligible to receive grants under this section only if the State has a plan approved by the Secretary under subsection (b).

"(b) STATE PLANS.—

"(1) SUBMISSION.—The Secretary shall formulate procedures for a State to submit annually a plan where the State agrees to adopt, and to assume responsibility for enforcing—

"(A) Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(B) State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

"(2) APPROVAL.—Subject to paragraph (3), a State plan submitted under paragraph (1) shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

"(A) designates the State motor vehicle safety agency responsible for administering the plan;

"(B) ensures that the State motor vehicle safety agency and other State or local agencies participating in the plan have or will have the legal authority, resources, and qualified personnel necessary for administering the plan;

"(C) ensures that the State will devote adequate funds for administering the plan;

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;

"(E) provides that the State motor vehicle safety agency will adopt uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations, as may be established and required by the Secretary;

"(F) provides that all required reports be submitted to the State motor vehicle safety agency and that the agency make the reports available to the Secretary, upon request;

"(G) ensures State participation in motor carrier information systems, including data bases containing data and information on drivers, vehicle inspections, driver operating compliance with applicable traffic safety laws and regulations, vehicle safety and compliance reviews, traffic accidents, and the weighing of vehicles;

"(H) ensures that commercial motor vehicle size and weight inspection activities will not diminish the effectiveness of other safety initiatives;

"(I) gives satisfactory assurances that the State will conduct effective activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment, and to provide an appropriate level of training to its Motor Carrier Safety Assistance Program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(ii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial driver's licenses;

"(iii) to ensure adequate enforcement of State or local traffic safety laws and regulations that affect commercial motor vehicle safety; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials;

"(J) gives satisfactory assurances that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and to provide training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions or local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety; and

"(K) seeks to ensure that fines imposed and collected by the State will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

"(3) ADDITIONAL PLAN REQUIREMENTS.—

"(A) SAFETY AND DRUG ENFORCEMENT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle safety (including commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), exclusive of Federal funds and State matching funds required to receive Federal funding, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's pre-

vious three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot projects.

"(B) WEIGHT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle size and weighing activities, exclusive of Federal funds, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In order to be authorized to use funds under this section to enforce commercial motor vehicle size and weight requirements, a State in its State plan submitted under this subsection shall certify that such size and weight activities will be coupled with an appropriate form of commercial motor vehicle safety inspection and will be directly related to a specific commercial motor vehicle safety problem in that State, in particular that funds for size and weight enforcement activities will be—

"(i) conducted at locations other than fixed weight facilities;

"(ii) used to measure or weigh vehicles at specific geographical locations (such as steep grades or mountainous terrains), where the weight of a vehicle can significantly affect the safe operation of that vehicle; or

"(iii) used at sea ports of entry into and exit from the United States, with a focus on intermodal shipping containers.

"(C) TRAFFIC SAFETY ENFORCEMENT.—The Secretary shall not approve a State plan that provides for funds received under this section to be used to enforce traffic safety regulations applicable to commercial motor vehicles, unless the State certifies in the plan that such traffic safety enforcement will be coupled with an appropriate form of a commercial motor vehicle safety inspection.

"(D) MAINTENANCE OF EFFORT.—The Secretary shall not approve any plan under this section which does not provide that the estimated aggregate expenditure of funds of the State and its political subdivisions, exclusive of Federal funds and State matching funds required to receive Federal funding, for commercial motor vehicle safety programs, including an estimate of expenditure for traffic enforcement activities that were coupled with commercial motor vehicle safety inspections, will be maintained at a level which does not fall below the estimated average level of such expenditure for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs.

"(3) CONTINUING EVALUATION; WITHDRAWAL OF APPROVAL; JUDICIAL REVIEW.—

"(A) EVALUATION.—The Secretary shall make a continuing evaluation of the manner in which each State is carrying out its State plan, based upon reports submitted by the State motor vehicle safety agency and upon the Secretary's own inspection. A written statement of the evaluation shall be prepared every three years, the first of which shall be completed within three years after the date of enactment of this section.

"(B) WITHDRAWAL OF APPROVAL.—After providing a State with notice and an opportunity to comment, whenever the Secretary finds that a State plan is not being followed, or has become inadequate to ensure the enforcement of—

"(i) Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders, and

"(ii) State or local traffic safety laws and regulations applicable to commercial motor vehicles,

the Secretary shall notify the State that approval of the State plan is being withdrawn and shall specify the Secretary's reasons for such withdrawal. The plan shall cease to be an approved plan upon receipt by the State of the notice of withdrawal, and the Secretary shall permit the State to modify and resubmit the plan in accordance with this subsection.

"(C) JUDICIAL REVIEW.—A State may seek judicial review of notice of withdrawal of approval, pursuant to chapter 7 of title 5, United States Code, in the appropriate United States Court of Appeals. The State may retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the approval of the State plan, if the issues involved do not directly relate to the reasons for the withdrawal of approval.

"(4) COORDINATION OF SAFETY PLANS.—The State motor vehicle safety agency shall coordinate the plan prepared under this subsection, with the highway safety plan developed under section 402 of this title. Such coordination shall include consultation with the Governor's Highway Safety Representative and representatives of affected industries to promote effective implementation of the purposes of this section.

"(c) FEDERAL SHARE OF COSTS.—By grants authorized under this section, the Secretary shall reimburse a State an amount not to exceed 80 percent of the costs incurred by that State in the development or implementation, or both, of programs as described under subsection (a). In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.

"(d) ALLOCATIONS.—

"(1) DEDUCTION FOR ADMINISTRATION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds available for that fiscal year. At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials, to carry out the purposes of this section.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under subsection (b), the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (h)(3) or for public education under subsection (h)(4), may designate specific eligible States among which to allocate such funds.

"(e) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and one succeeding fiscal year. Funds not expended by a State during those two fiscal years shall be released to the Secretary for reallocation. Funds made available under part A of title IV of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2301 et seq.) which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this section.

"(f) OBLIGATION OF FUNDS.—Approval by the Secretary of a grant to a State under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the costs incurred by that State in development or implementation, or both, of programs as described under subsection (a).

"(g) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.

"(h) FUNDING.—

"(1) AVAILABILITY.—To incur obligations to carry out the purposes of this section, there shall be available to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) not to exceed $70,000,000 for fiscal year 1993, $75,000,000 for fiscal year 1994, $80,000,000 for fiscal year 1995, and $85,000,000 for fiscal year 1996.

"(2) ENFORCEMENT.—Of funds made available under this subsection for any fiscal year, not less than $7,500,000 each year shall be used to pay for traffic enforcement activities focused exclusively upon commercial motor vehicle drivers, if such activities are coupled with an appropriate type of inspection for compliance with the commercial motor vehicle safety regulations. Of the funds made available under this subsection for each of fiscal years 1993 and 1994, not less than $1,500,000 shall be used to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) by Motor Carrier Safety Assistance Program officers and employees, specifically including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to that Act.

"(3) RESEARCH AND DEVELOPMENT.—Not less than $500,000 but not more than $2,000,000 of the funds made available under this subsection for any fiscal year shall be available for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of this section and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary. The development of the model program and procedures required under section 6 of the Motor Carrier Safety Assistance Program Reauthorization Act of 1991 shall be funded under this paragraph.

"(4) PUBLIC EDUCATION.—Not less than $350,000 of the funds made available under this subsection for any fiscal year shall be allocated among specified eligible States to help educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.

"(i) DEFINITIONS.—As used in this section, the term—

"(1) 'commerce' means—

"(A) trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside the United States); and

"(B) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A).

"(2) 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property—

"(A) if the vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(B) if the vehicle is designed to transport more than 15 passengers, including the driver; or

"(C) if the vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under that Act.

"(3) 'controlled substance' has the meaning such term has under section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b)).

"(4) 'State' means any one of the 50 States, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands.".

(b) AMENDMENT TO SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—

(1) ELIGIBLE EXPENDITURES.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302) is amended by adding at the end the following new subsection:

"(e) After the date of enactment of this subsection, a State with a plan approved under subsection (b)(1) of this section may be reimbursed by the Secretary under this part for expenditures in enforcing State or local traffic laws or regulations designed to promote the safe operation and driving of commercial motor vehicles, or for activities described under section 411(b)(2)(I) and (J) of title 23, United States Code, or both.".

(2) FUNDING.—Section 404(a)(2) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304(a)(2)) is amended—

(A) by striking "1988 and" and inserting in lieu thereof "1988,"; and

(B) by inserting immediately before the period at the end the following: ", and $65,000,000 per fiscal year for fiscal year 1992".

(c) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following new item:

"412. Motor carrier safety assistance program."

SEC. 233. NEW FORMULA FOR ALLOCATION OF MCSAP FUNDS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation by regulation shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the Motor Carrier Safety Assistance Program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety, including traffic safety enforcement and size and weight enforcement activities that are coupled with motor carrier safety inspections; to increase compatibility of State commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations; and to promote other factors intended to promote effectiveness and efficiency that the Secretary determines appropriate.

SEC. 234. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—Section 12008 of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2707) is amended by adding at the end the following new subsection:

"(g) VIOLATION OF OUT-OF-SERVICE ORDERS.—

"(1) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

"(B) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

"(C) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

"(3) DEADLINES.—The regulations required under paragraph (1) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of enactment of this subsection and shall be issued not later than 12 months after such date of enactment.".

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2708(a)(21)) is amended by inserting "and (g)(1)" immediately before the period at the end.

SEC. 235. INTRASTATE COMPATIBILITY.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety law and regulations with the Federal motor carrier safety regulations under the Motor Carrier Safety Assistance Program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 411 of title 23, United States Code, as added by this part, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 236. ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS.

Within 3 months after the date of enactment of this Act, the Secretary of Transportation shall consult with representatives of law enforcement organizations and affected industries, and develop within 12 months after such date of enactment a model program and procedures for Motor Carrier Safety Assistance Program officers and employees to enforce the .04 percent blood alcohol concentration limit established by regulation pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

SEC. 237. FHWA POSITIONS.

To help implement the purposes of this part, the Secretary of Transportation in fiscal year 1992 shall employ and maintain thereafter two additional positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 238. DRUG FREE TRUCK STOPS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) at least three times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located adjacent to or within 2,500 feet of the Interstate and Defense System or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting, immediately after the item relating to section 408, the following:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant con-

victed of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines referred to in paragraph (2), as promulgated or amended under such paragraph, shall provide that an offense that could be subject to multiple enhancements pursuant to such paragraph is subject to not more than one such enhancement.

SEC. 239. IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES.

(a) RULEMAKING PROCEEDING.—Section 9107 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Public Law 100-690, subtitle B of title IX; 102 Stat. 4530) is amended—

(1) by striking "REPORT ON" in the heading;

(2) by inserting "(a) REPORT.—" immediately before "Not later than"; and

(3) by adding at the end the following new subsection:

"(b) RULEMAKING PROCEEDING.—The Secretary shall initiate a rulemaking proceeding not later than July 1, 1991. Such proceeding shall concern the need to adopt methods for improving braking performance standards for commercial motor vehicles and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to issue as a result of such proceeding regarding improved brake performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceeding required by this subsection not later than April 1, 1992.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 9101(b) of the Truck and Bus Safety and Regulatory Reform Act of 1988 (102 Stat. 4527) is amended by striking "Report on improved" in the item relating to section 9107 and inserting in lieu thereof "Improved".

SEC. 240. COMPLIANCE REVIEW PRIORITY.

If the Secretary of Transportation identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for a compliance review.

SEC. 241. REPORT ON TRAINING OF DRIVERS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. The report shall include recommendations of the Secretary on the feasibility, desirability, and cost effectiveness of establishing mandatory Federal training requirements for all such entry level drivers. In preparing the report, the Secretary shall solicit the views of interested persons.

PART C—TRANSPORTATION EMPLOYEE TESTING

SEC. 261. SHORT TITLE.

This part may be cited as the "Omnibus Transportation Employee Testing Act of 1991".

SEC. 262. FINDINGS.

The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

SEC. 263. TESTING TO ENHANCE AVIATION SAFETY.

(a) IN GENERAL.—Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC. 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) TESTING PROGRAM.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) SUSPENSION; REVOCATION; DISQUALIFICATION; DISMISSAL.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"(b) PROHIBITION ON SERVICE.—

"(1) PROHIBITED ACT.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) EFFECT OF REHABILITATION.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) PERFORMANCE OF PRIOR DUTIES PROHIBITED.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) PROGRAM FOR REHABILITATION.—

"(1) PROGRAM FOR EMPLOYEES OF CARRIERS.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) PROGRAM FOR FAA EMPLOYEES.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end the following:

"Sec. 614. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

SEC. 264. TESTING TO ENHANCE RAILROAD SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a

minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

SEC. 265. TESTING TO ENHANCE MOTOR CARRIER SAFETY.

(a) AMENDMENT TO COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986.—

(1) IN GENERAL.—The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) CONFORMING AMENDMENT.—The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b) PILOT TEST PROGRAM.—

(1) DESIGN AND IMPLEMENTATION.—The Secretary shall design within nine months after the date of enactment of this Act, and implement within 15 months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) SOLICITATION.—The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) SELECTION.—The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) DURATION; ALTERNATIVE METHODOLOGIES.—The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a com-

prehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) FUNDING.—For purposes of carrying out this subsection, there shall be available to the Secretary, $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1992.

(7) DEFINITION.—For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

SEC. 266. TESTING TO ENHANCE MASS TRANSPORTATION SAFETY.

(a) DEFINITIONS.—As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country; and

(3) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b) TESTING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall, in the interest of mass transportation safety, issue regulations within 12 months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) REHABILITATION PROGRAMS.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) OTHER REGULATION ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f) PENALTIES.—

(1) DISQUALIFICATION.—As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) EFFECT ON OTHER APPLICABLE PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) INELIGIBILITY FOR FINANCIAL ASSISTANCE.—A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.

PART D—GENERAL PROVISIONS

SEC. 271. RURAL TOURISM DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "Rural Tourism Development Act of 1991".

(b) RURAL TOURISM DEVELOPMENT FOUNDATION.—

(1) FINDINGS.—The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) ESTABLISHMENT OF FOUNDATION.—In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(3) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(A) participation in the development and distribution of educational and promotional mate-

rials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(B) development of educational resources to assist in private and public rural tourism development; and

(C) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(4) BOARD OF DIRECTORS.—

(A) ESTABLISHMENT.—

(i) COMPOSITION.—The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(I) during its first two years shall consist of nine voting members; and

(II) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(ii) APPOINTMENT.—

(I) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(II) The voting members of the Board, other than those referred to in subclause (I), shall be appointed in accordance with procedures established by such bylaws.

(iii) QUALIFICATIONS.—The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(iv) TERMS OF OFFICE.—Voting members of the Board shall each serve a term of six years, except that—

(I) initial terms shall be staggered to assure continuity of administration;

(II) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(III) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(B) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(C) CHAIRMAN; VICE CHAIRMAN.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(D) MEETINGS; QUORUM; OFFICIAL SEAL.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(5) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(6) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(A) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(B) GIFTS, DEVISES, AND BEQUESTS FOR BENEFIT OF INDIAN TRIBES.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(7) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(8) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(9) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(10) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(11) ADMINISTRATION.—

(A) IN GENERAL.—In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(B) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(C) TREATMENT AS FEDERAL EMPLOYEE.—Neither an officer or employee hired under subparagraph (A) nor an individual who provides services under subparagraph (B) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(12) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(13) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(14) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(15) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $500,000 to—

(A) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(B) provide administrative services for the Rural Tourism Development Foundation.

(16) DEFINITIONS.—As used in this section, the term—

(A) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(B) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(C) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(D) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(17) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International

Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

(A) by striking "and" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

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

"(16) may assist the Rural Tourism Development Foundation, established under the Rural Tourism Development Act of 1991, in the development and promotion of rural tourism.".

SEC. 272. EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code, is amended by adding in an appropriate place the following new section:

"§ Education and Training Program

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support service that will:

"(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge and safety management systems; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; and a tourism and recreational travel technical assistance program;

"(2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and

"(3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers: Provided, That not less than four centers shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a 'circuit-rider' program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds authorized by section 104(a). The sum of $8,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 per centum for services provided to American Indian tribal governments. An additional sum of $5,000,000 for the fiscal year 1992 shall be set aside from such administrative funds to establish and carry out a tourism and recreational travel technical assistance program in non-urbanized areas. Funds to carry out this section shall remain available until expended.".

SEC. 273. COMMERCIAL DRIVERS LICENSE WAIVER.

In addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313–37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, and to vehicles used to transport livestock feed, whether or not such vehicles are controlled and operated by a farmer.

SEC. 274. BORDER CROSSING STUDY.

(a) The Secretary of Transportation shall conduct a review of current Federal highways that access border crossings between the United States and Canada in order to:

(1) determine whether or not they are in compliance with current Federal highway regulations and adequately designed for future growth and expansion;

(2) assess their ability to accommodate increased transfer of commerce due to the United States-Canada Free Trade Agreements; and

(3) assess their ability to accommodate increasing tourism-related traffic between the United States and Canada. The review shall specifically address issues related to the alignment of United States and Canadian highways at the border crossings, the development of bicycle paths and pedestrian walkways, potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

(b) The Secretary shall issue a report of the findings of this review to the Senate Environment and Public Works Committee and the House Public Works Committee within 60 days after the date of enactment of this Act.

TITLE III—FEDERAL TRANSIT ACT OF 1991

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Federal Transit Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 301. Short title; table of contents.
Sec. 302. Change of agency name.
Sec. 303. Amendment to short title of the 1964 Act.
Sec. 304. Findings and purposes.
Sec. 305. Commute-to-work benefits.
Sec. 306. Capital grant or loan program.
Sec. 307. Capital grants; technical amendment to provide for early systems work contracts and full funding grant contracts.
Sec. 308. Section 3 program—Allocations.
Sec. 309. Section 3 program—Rail modernization formula.
Sec. 310. Section 3 program—Local share.
Sec. 311. Section 3—Grandfathered jurisdictions.
Sec. 312. Capital grants—Innovative techniques and practices.
Sec. 313. Capital grants—Elderly persons and persons with disabilities.
Sec. 314. Capital grants—Eligible activities.
Sec. 315. Criteria for new starts.
Sec. 316. Advance construction; technical amendment related to interest cost.
Sec. 317. Federal share for ADA and Clean Air Act compliance.
Sec. 318. Capital grants—Deletion of extraneous material.
Sec. 319. Comprehensive transportation strategies.
Sec. 320. Section 9 program—Allocations.
Sec. 321. Section 9 formula grant program—Discretionary transfer of apportionment.
Sec. 322. Section 9 program—Elimination of incentive tier.
Sec. 323. Section 9 program—Energy efficiency.
Sec. 324. Section 9 program—Applicability of safety provisions.
Sec. 325. Section 9 program—Certifications.
Sec. 326. Section 9 program—Program of projects.
Sec. 327. Ferry routes.
Sec. 328. Section 9 program—Continued assistance for commuter rail in southern Florida.
Sec. 329. Section 11—University transportation centers.
Sec. 330. Rulemaking.
Sec. 331. Section 12—Transfer of facilities and equipment.
Sec. 332. Special Procurement.
Sec. 333. Section 16—Elderly persons and persons with disabilities.
Sec. 334. Meal delivery service to homebound persons.
Sec. 335. Section 18—Transfer of facilities and equipment.
Sec. 336. Section 18—Grants to offset Amtrak losses.
Sec. 337. Human resources program support.
Sec. 338. Authorizations.
Sec. 339. Report on safety conditions in mass transit.
Sec. 340. Section 23—Project management oversight.
Sec. 341. Section 26—Planning and research.
Sec. 342. Technical accounting provisions.
Sec. 343. GAO report on charter service regulations.
Sec. 344. GAO study on public transit needs.
Sec. 345. Use of population estimates.
Sec. 346. Section 9B—Technical amendment.
Sec. 347. Use of census data.

SEC. 302. CHANGE OF AGENCY NAME.

(a) IN GENERAL.—The Urban Mass Transportation Administration is hereby redesignated as the "Federal Transit Administration".

(b) CONFORMING AMENDMENTS.—Titles 5 and 49, United States Code, are amended by striking "Urban Mass Transportation Administration" wherever it appears and inserting "Federal Transit Administration".

(c) OTHER REFERENCES.—Any reference in any other provision of law to the "Urban Mass Transportation Administration" shall be deemed to refer instead to the "Federal Transit Administration".

SEC. 303. AMENDMENT TO SHORT TITLE OF THE 1964 ACT.

(a) IN GENERAL.—The Urban Mass Transportation Act of 1964 is amended by striking the first section and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Federal Transit Act'.".

(b) OTHER REFERENCES.—Any reference in any other provision of law to the "Urban Mass Transportation Act of 1964" shall be deemed to refer instead to the "Federal Transit Act".

SEC. 304. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) of the Federal Transit Act (hereafter referred to in this Act as the "Act") (49 U.S.C. App. 1601(a)) is amended—

(1) in paragraph (2), by striking "and" after "basis";

(2) in paragraph (3), by striking the period and inserting "; and"; and

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

"(4) that significant improvements in public transportation are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.".

(b) PURPOSES.—Section 2(b) of the Act (49 U.S.C. App. 1601(b)) is amended—

(1) in paragraph (2), by striking "and" after "private";

(2) in paragraph (3), by striking the period and inserting "; and"; and

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

"(4) to provide financial assistance to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with dis-

abilities, and economically disadvantaged persons.".

SEC. 305. COMMUTE-TO-WORK BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

(4) current Federal law allows employers to provide only up to $15 per month in employee benefits for transit or van pools;

(5) the current "cliff provision", which treats an entire commuter transit benefit as taxable income if it exceeds $15 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy "levels the playing field" between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 306. CAPITAL GRANT OR LOAN PROGRAM.

The heading of section 3 of the Act (49 U.S.C. App. 1602) is amended by striking "DISCRETIONARY" and inserting "CAPITAL".

SEC. 307. CAPITAL GRANTS; TECHNICAL AMENDMENT TO PROVIDE FOR EARLY SYSTEMS WORK CONTRACTS AND FULL FUNDING GRANT CONTRACTS.

Section 3(a)(4) of the Act (49 U.S.C. App. 1602(a)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the fifth sentence, by inserting "not less than" after "complete";

(3) by adding after the fifth sentence the following:

"(B) The Secretary is authorized to enter into a full funding contract with the applicant, which contract shall—

"(i) establish the terms and conditions of Federal financial participation in a project under this section;

"(ii) establish the maximum amounts of Federal financial assistance for such project; and

"(iii) facilitate timely and efficient management of such project in accordance with Federal law.

"(C) A contract under subparagraph (B) shall obligate an amount of available budget authority specified in law and may include a commitment, contingent upon the future availability of budget authority, to obligate an additional amount or additional amounts from future available budget authority specified in law. The contract shall specify that the contingent commitment does not constitute an obligation of the United States. The future availability of budget authority referred to in the first sentence of this subparagraph shall be amounts specified in law in advance for commitments entered into under subparagraph (B). Any interest and other financing costs of efficiently carrying out the project or a portion thereof shall be considered as a cost of carrying out the project under a full funding contract, except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The total of amounts stipulated in a contract for a fixed guideway project shall be sufficient to complete not less than an operable segment.

"(D) The Secretary is authorized to enter into early systems work agreements with the applicant if a record of decision pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary determines there is reason to believe—

"(i) a full funding contract will be entered into for the project; and

"(ii) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

The early systems work agreement shall obligate an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of project implementation, including land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The interest and other financing costs of carrying out the early systems work agreement efficiently shall be considered as a cost of carrying out the agreement, except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant fails to implement the project for reasons within the applicant's control, the applicant shall repay all Federal payments made under the early systems work agreement plus such reasonable interest and penalty charges as the Secretary may establish in the agreement.";

(4) by inserting "(E)" before "The total estimated";

(5) in the sentence that begins "The total estimated"—

(A) by inserting "and contingent commitments to incur obligations," after "Federal obligations";

(B) by inserting "early systems work agreements and full funding grant contracts," after "all outstanding letters of intent,"; and

(C) by inserting "or 50 percent of the uncommitted cash balance remaining in the mass transit account of the Highway Trust Fund, including amounts received from taxes and interest earned in excess of amounts that have been previously obligated, whichever is greater" after "section 3 of this Act"; and

(6) in the sentence that begins "The total amount covered", by inserting "and contingent commitments included in early systems work agreements and full funding grant contracts" after "by new letters issued,".

SEC. 308. SECTION 3 PROGRAM—ALLOCATIONS.

Section 3(k)(1) of the Act (49 U.S.C. App. 1602(k)(1)) is amended to read as follows:

"(1) IN GENERAL.—Of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, and 1996—

"(A) 40 percent shall be available for rail modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 20 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.".

SEC. 309. SECTION 3 PROGRAM—RAIL MODERNIZATION FORMULA.

Section 3(k) of the Act (49 U.S.C. App. 1602(k)) is amended by adding at the end the following:

"(3) RAIL MODERNIZATION FORMULA.—

"(A) HOLD HARMLESS FOR HISTORIC RAIL SYSTEMS.—

"(i) IN GENERAL.—Of the amounts available under paragraph (1)(A), the Secretary shall, in each of fiscal years 1992 through 1996, reserve for grants to historic rail systems $455,000,000 or the amount approved in an appropriations Act, whichever is less.

"(ii) SPECIFIC ALLOCATIONS.—The Secretary shall initially allocate—

"(I) 41 percent of the amount reserved in clause (i) to those two historic rail systems with shared responsibility for the operation and preservation of a regional commuter rail line that, taken together, would receive 49 percent under the apportionment formula specified in section 9(b)(2) if such formula was applied, solely for the historic rail systems, to the total amount available for allocation under this paragraph, with 14.63 percent of the amounts so allocated being reserved for the smaller of the two historic rail systems as measured by fixed guideway route miles; and

"(II) an amount equal to 2 percent of the amount reserved in clause (i) to that historic rail system that received funding for rail modernization under this section for only 2 of the 5 fiscal years 1986 through 1990.

"(iii) GENERAL ALLOCATIONS.—The Secretary shall allocate all amounts described in clause (i) that remain after making the allocations specified in clause (ii) so that each historic rail system, other than those specified under such clause, receives the higher of—

"(I) an amount that bears the same ratio to the total amount available for allocation under this subparagraph as the total amount of funding for rail modernization activities received during fiscal years 1984 through 1990 by that historic system bears to the total amount of funding for rail modernization received during fiscal years 1984 through 1990 by all historic rail systems, or

"(II) an amount that bears the same ratio to the total amount available for allocation under this subparagraph as the total amount of funding for rail modernization activities received during fiscal years 1988 through 1990 by that historic system bears to the total amount of funding for rail modernization received during fiscal years 1988 through 1990 by all historic rail systems.

The Secretary shall make such fair and equitable adjustments to the amounts received by historic rail systems under this clause as are necessary for the practicable administration of the program. Notwithstanding the allocations that would otherwise result under this clause, an historic rail system shall not receive less than the amount the system would receive if the apportionment formula specified under section 9(b)(2) were applied, solely for the historic rail systems, to the total amount available for allocation under this clause.

"(B) REMAINDER.—

"(i) INITIAL ALLOCATION.—After reserving amounts for historic rail systems as required by subparagraph (A), the Secretary shall allocate any amounts remaining available under paragraph (1)(A) that exceed the allocations made under subparagraph (A), but that do not exceed $525,000,000, as follows:

"(I) 50 percent shall be allocated among historic rail systems in accordance with the apportionment formula specified under section 9(b)(2); and

"(II) 50 percent shall be allocated among all other eligible systems in accordance with the apportionment formula specified under section 9(b)(2).

"(ii) SECOND ALLOCATION.—Any amounts available under paragraph (1)(A) in excess of the amounts allocated under subparagraph (A) and clause (i) of this subparagraph shall be

made available to all eligible systems in accordance with the apportionment formula specified under section 9(b)(2).

"(C) APPORTIONMENT.—(i) On October 1 of each fiscal year, the Secretary shall apportion any amounts made available or authorized to be appropriated for that fiscal year (and any fiscal years remaining in the authorization period identified under paragraph (3)) among all eligible systems in accordance with the provisions of this paragraph. The Secretary shall publish apportionments of such authorized amounts on the apportionment date established by the preceding sentence.

"(ii) The Secretary shall apportion any amounts provided or approved for obligation in an appropriations Act to carry out paragraph (3)(A) for any fiscal year in accordance with the provisions of this paragraph not later than the 10th day following the date on which such funds were appropriated or October 1 of such fiscal year, whichever is later. The Secretary shall publish apportionments of such appropriated amounts on the apportionment date established by the preceding sentence.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'historic rail system' includes those rail systems that (I) received funding for rail modernization under this section for at least 2 of the 5 fiscal years 1986 through 1990, and (II) receive in fiscal year 1991 at least 0.5 percent of the total amount of funding made available under section 9(b)(2); and

"(ii) the term 'eligible systems' shall include, for a given fiscal year, all historic rail systems and all other fixed guideway systems placed in revenue service more than 10 years prior to such fiscal year. The term 'eligible system' may include, for a given fiscal year, a fixed guideway system not eligible under the preceding sentence if such system, prior to the beginning of such fiscal year, demonstrates to the satisfaction of the Secretary that the system has modernization needs that cannot be met adequately with amounts received under section 9(b)(2) of this Act. A fixed guideway system shall be considered to be placed in revenue service for purposes of this clause if a minimum operable segment of such system was so placed.".

SEC. 310. SECTION 3 PROGRAM—LOCAL SHARE.

Section 4(a) of the Act is amended by inserting at the end the following new sentence: "The remainder so provided may include the cost of rolling stock previously purchased if the applicant demonstrates to the satisfaction of the Secretary that—

"(1) such purchase was made solely with non-Federal funds;

"(2) such purchase would not have been made except for use on a planned extension that is eligible for assistance under section 3; and

"(3) the rolling stock so purchased is to be used on the extension for which the Federal grant is being requested.".

SEC. 311. SECTION 3—GRANDFATHERED JURISDICTIONS.

Section 3(a)(4) of the Act (49 U.S.C. App. 1602(a)(4)), as amended by section 307 of this title, is amended by adding at the end the following subparagraph:

"(F) All existing letters of intent, full funding agreements and letters of commitment, issued prior to the enactment of the Federal Transit Act of 1991, shall be continued in force.".

SEC. 312. CAPITAL GRANTS—INNOVATIVE TECHNIQUES AND PRACTICES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by inserting before the semicolon the following: ", including grants to States and local public bodies for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services".

SEC. 313. CAPITAL GRANTS—ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by striking subparagraph (E) and inserting the following:

"(E) mass transportation services which are planned, designed, and carried out to meet the special needs of elderly persons and persons with disabilities, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under this section; and".

SEC. 314. CAPITAL GRANTS—ELIGIBLE ACTIVITIES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by adding at the end the following:

"(F) the development of corridors to support fixed guideway systems, including bus service improvements, marketing of bus service, protection of rights-of-way through acquisition, transportation system management improvements such as dedicated bus and high occupancy vehicle lanes and construction of park and ride lots, and any other improvements that the Secretary may determine would result in increased transit usage in the corridor.".

SEC. 315. CRITERIA FOR NEW STARTS.

Section 3(i) of the Act (49 U.S.C. App. 1602(i)) is amended to read as follows:

"(i) NEW START CRITERIA.—

"(1) DETERMINATIONS.—A grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may not be made under this section unless the Secretary determines that the proposed project—

"(A) is based on the results of an alternatives analysis and preliminary engineering;

"(B) is cost-effective;

"(C) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

"(2) CONSIDERATIONS.—In making determinations under this subsection, the Secretary—

"(A) shall consider the direct and indirect costs of relevant alternatives;

"(B) shall account for costs related to such factors as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including the degree to which the project increases the mobility of the transit dependent population or promotes economic development, and other factors that the Secretary deems appropriate to carry out the purposes of this Act.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall issue guidelines that set forth the means by which the Secretary shall evaluate cost-effectiveness, results of alternatives analysis, and degree of local financial commitment for the purposes of paragraph (1).

"(B) COST-EFFECTIVENESS.—Cost-effectiveness thresholds shall be adjusted to account for inflation and to reflect differences in local land costs, construction costs, and operating costs.

"(C) FINANCIAL COMMITMENT.—The degree of local financial commitment shall be considered acceptable only if—

"(i) the proposed project plan provides for the availability of contingency funds that the Secretary determines to be reasonable to cover unanticipated cost overruns;

"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(D) STABILITY ASSESSMENT.—In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which funding sources are dedicated to the purposes proposed; and

"(iii) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(4) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—A new fixed guideway system or extension shall not be subject to the requirements of this subsection and the simultaneous evaluation of such projects in more than one corridor in a metropolitan area shall not be limited if (i) the project is located within an extreme or severe nonattainment area and is a transportation control measure, as defined by the Clean Air Act, that is required to carry out an approved State Implementation Plan, or (ii) assistance provided under this section accounts for less than $25,000,000 or less than ⅓ of the total cost of the project or an appropriate program of projects as determined by the Secretary.

"(B) EXPEDITED PROCEDURES.—In the case of a project that is (i) located within a nonattainment area that is not an extreme or severe nonattainment area, (ii) a transportation control measure, as defined in the Clean Air Act, and (iii) required to carry out an approved State Implementation Plan, the simultaneous evaluation of projects in more than one corridor in a metropolitan area shall not be limited and the Secretary shall make determinations under this subsection with expedited procedures that will promote timely implementation of the State Implementation Plan.

"(C) EXCLUSION FOR CERTAIN PROJECTS.—That portion of a project financed with highway funds made available under the Federal-Aid Highway Act of 1991 shall not be subject to the requirements of this subsection.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding contract.".

SEC. 316. ADVANCE CONSTRUCTION; TECHNICAL AMENDMENT RELATED TO INTEREST COST.

Section 3(l)(2)(B) of the Act (49 U.S.C. App. 1602(l)(2)(B)) is amended by striking all after "greater than" and inserting "the most favorable interest terms reasonably available for the project at the time of borrowing.".

SEC. 317. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 12 of the Act (49 U.S.C. 1608) is amended by inserting at the end thereof the following new subsection:

"(k) FEDERAL SHARE FOR CERTAIN PROJECTS.—The Federal grant for a project to be assisted under this Act that involves the acquisition of bus-related equipment required by the Clean Air Act or the Americans with Disabilities Act of 1990 shall be 90 percent of the net project cost of such equipment attributable to compliance with such Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs attributable to equipment specified in the preceding sentence.".

SEC. 318. CAPITAL GRANTS—DELETION OF EXTRANEOUS MATERIAL.

Section 4 of the Act (49 U.S.C. App. 1603) is amended—

(1) by inserting at the end of subsection (a) the following: "If the Secretary gives special consideration to projects that include more than the minimum non-Federal share of the net project cost required under this subsection, the Secretary shall give reasonable consideration to differences in the fiscal capacity of State and local governments."; and

(2) by striking subsections (b) through (g) and subsection (i) and redesignating subsection (h) as subsection (b).

SEC. 319. COMPREHENSIVE TRANSPORTATION STRATEGIES.

Section 8 of the Act (49 U.S.C. App. 1607) is amended to read as follows:

"SEC. 8. COMPREHENSIVE TRANSPORTATION STRATEGIES.

"(a) METROPOLITAN TRANSPORTATION STRATEGIES.—

"(1) IN GENERAL.—It is in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. The Secretary shall cooperate with State and local officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

"(2) METROPOLITAN PLANNING ORGANIZATIONS.—

"(A) IN GENERAL.—A metropolitan planning organization shall be designated for each urbanized area of more than 50,000 in population by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. In those metropolitan areas eligible for designation as transportation management areas in accordance with subparagraph (D), the metropolitan planning organization shall include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area, (including, at a minimum, all transportation agencies that were included as of June 1, 1991) and appropriate State officials. For purposes of this section, the term 'metropolitan area' shall mean an area for which one metropolitan planning organization is responsible.

"(B) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this or earlier provisions of law, shall remain in effect until revoked by agreement among the Governor and the affected units of general purpose local government, or as otherwise provided under State or local procedures, except that a metropolitan planning organization (i) shall be redesignated within a period of 12 months if the metropolitan area is designated as a transportation management area under subparagraph (D), and (ii) metropolitan planning organizations may be reorganized by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population including the central city or cities, as defined by the Bureau of the Census, as appropriate to carry out the provisions of this Act. The Secretary shall establish practicable procedures and timetables that the Secretary determines to be appropriate for metropolitan planning organizations to meet the requirements of subparagraph (A).

"(C) RESPONSIBILITY OF THE GOVERNOR.—When a metropolitan planning organization is designated or reorganized, the Governor shall ensure that the metropolitan planning organization is structured to—

"(i) give balanced assessment to all modes of transportation, including roadway and public transit facilities;

"(ii) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area; and

"(iii) otherwise carry out the metropolitan planning organization's responsibilities under Federal law. The Governor shall certify to the Secretary that the requirements of this subparagraph have been met.

"(D) TRANSPORTATION MANAGEMENT AREAS.—The Secretary shall publish and annually update a list of those metropolitan areas that—

"(i) have populations of more than 250,000; or

"(ii) are nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.).

The Secretary shall designate such areas to be transportation management areas. The Secretary may designate additional metropolitan areas to be transportation management areas upon the request of the Governor and the metropolitan planning organization. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. The designation of a transportation management area shall remain in effect until revoked by the Secretary. The metropolitan planning organization in a transportation management area shall carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the State and transit operators and have such additional authorities and responsibilities as are specified in this Act.

"(E) TRANSITIONAL PROVISION.—The Secretary shall designate as transportation management areas—

"(i) not less than 20 percent of the metropolitan areas on the list in subparagraph (D) within 1 year after the date of enactment of this section;

"(ii) not less than 40 percent of such areas within 2 years after the date of enactment of this section;

"(iii) not less than 60 percent of such areas within 3 years after the date of enactment of this section;

"(iv) not less than 80 percent of such areas within 4 years after the date of enactment of this section; and

"(v) all such areas thereafter.

To the extent the Secretary deems practicable after taking into account local circumstances, the Secretary shall exceed the percentages required in this subparagraph and give priority to designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Secretary shall designate all nonattainment areas that are classified under the Clean Air Act as moderate, serious, severe, or extreme nonattainment areas for ozone or serious nonattainment areas for carbon monoxide within 2 years after the date of enactment of the Federal Transit Act of 1991.

"(3) METROPOLITAN AREA BOUNDARIES.—

"(A) IN GENERAL.—For the purposes of this Act, the boundaries of any metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent 20-year period.

"(B) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within a metropolitan statistical area, as defined by the Bureau of the Census, if—

"(i) more than 1 metropolitan planning organization was designated within such area on January 1, 1991; and

"(ii) the Secretary determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization appropriate.

If more than 1 metropolitan planning organization has authority within a metropolitan statistical area, appropriate provision, as determined by the Secretary, shall be made to coordinate the metropolitan transportation strategies within such urban area.

"(C) INCLUSION OF CLEAN AIR NONATTAINMENT AREAS.—Any area that—

"(i) is found to be in nonattainment for any transportation-related pollutant under the Clean Air Act; or

"(ii) is determined by the Governor and the metropolitan planning organization to be likely to be significantly affected by air pollution within a reasonable period of time shall be included within the boundaries of the appropriate metropolitan area, as determined by the Governor and the metropolitan planning organization. If more than one metropolitan planning organization has authority within a nonattainment area, appropriate provision, as determined by the Secretary, shall be made to coordinate the metropolitan transportation strategies within such nonattainment area.

"(D) COORDINATION IN MULTI-STATE AREAS.—

"(i) IN GENERAL.—The Secretary shall establish such requirements as the Secretary deems appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Bureau of the Census, to provide coordinated transportation planning for the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area.

"(ii) COMPACTS.—The consent of the Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

"(4) DEVELOPMENT OF TRANSPORTATION STRATEGY.—

"(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update periodically, according to a schedule that the Secretary determines to be appropriate, a metropolitan transportation strategy for its metropolitan area as provided in this section. In developing the strategy, the metropolitan planning organization shall consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

"(B) PUBLICATION OF STRATEGIES.—A metropolitan transportation strategy shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish as appropriate for the publication and submission of metropolitan transportation strategies to carry out this section.

"(C) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In nonattainment areas for transportation-related pollutants, the metropolitan planning organization shall coordinate the development of a metropolitan transportation strategy with the process for development of the transportation measures of the State Implementation Plan required by the Clean Air Act.

"(D) PARTICIPATION BY INTERESTED PARTIES.—Prior to approving a metropolitan trans-

portation strategy, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy, in a manner that the Secretary deems appropriate.

"(E) CERTIFICATION OF COMPLIANCE.—The Secretary shall assure that each metropolitan planning organization is carrying out its responsibilities under applicable provisions of Federal law. The Secretary shall, not less frequently than every 3 years, provide certification to those metropolitan planning organizations that, in the opinion of the Secretary, are carrying out applicable requirements of Federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that a metropolitan planning organization is not carrying out its responsibilities under applicable provisions of Federal law, the Secretary shall deny certification and, until corrective action satisfactory to the Secretary is taken, may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or this Act. The Secretary shall not (i) withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization for determining the feasibility of private enterprise participation in accordance with section 8(e), or (ii) otherwise impede a metropolitan planning organization's implementation of such policies and criteria.

"(5) CONTENTS OF STRATEGY.—A metropolitan transportation strategy under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum—

"(A) identify transportation facilities (including but not necessarily limited to major roadways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as—

"(i) moving goods within the metropolitan area and among distant markets;

"(ii) enabling people to move quickly to and from home, jobs and other destinations; and

"(iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

"(B) assess major demands on the metropolitan transportation system, projected over the subsequent 20-year period;

"(C) set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including State and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity; and

"(D) explain how proposed transportation decisions will—

"(i) achieve compliance with applicable requirements of the Clean Air Act, the Clean Water Act, and other environmental and resource conservation laws;

"(ii) further applicable Federal, State and local energy conservation programs, goals and objectives; and

"(iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

"(E) explain—

"(i) the extent to which State and local policies regarding land use and transportation will affect metropolitan-wide mobility; and

"(ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

"(F) include a financial plan that demonstrates how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

"(G) project capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

"(H) indicate as appropriate proposed transportation enhancement activities.

"(6) ABBREVIATED STRATEGIES FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under paragraph (2)(D), the Secretary may provide for the development of abbreviated metropolitan transportation strategies that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas.

"(7) STATEWIDE STRATEGY.—The State shall develop a statewide transportation strategy, in a form acceptable to the Secretary, that shall take into account the transportation needs of areas for which no metropolitan planning organization has been designated.

"(b) TRANSPORTATION IMPROVEMENT PROGRAMS.—

"(1) DEVELOPMENT OF PROGRAMS.—

"(A) IN GENERAL.—The metropolitan planning organization, in cooperation with the State and relevant transit operators, shall develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years.

"(B) CONTENTS.—The program shall—

"(i) include all projects within the metropolitan area proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and this Act, except as provided in clause (iii);

"(ii) conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act; and

"(iii) include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project and, in the case of a major project to expand the transportation capacity, an appropriate range of alternatives has been analyzed pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

"(2) PERIODIC REVIEW AND REVISION.—The metropolitan planning organization shall update or reapprove the program not less frequently than annually, except that the Secretary may provide for a less frequent updating for areas that are not designated to be transportation management areas, as the Secretary determines to be appropriate. A metropolitan planning organization may amend the program at any time, if the amendment is consistent with the metropolitan transportation strategy.

"(3) NOTICE AND COMMENT.—Prior to approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(4) PRIORITY PROJECTS.—The program shall identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

"(5) STATE PROGRAMS.—The Governor shall develop and submit to the Secretary, in a form acceptable to the Secretary, a transportation improvement program covering a period of not less than 3 years for areas for which no metropolitan planning organization has been designated and shall include in such program the projects proposed for funding in both metropolitan and nonmetropolitan areas under sections 108 and 109 of the Federal-Aid Highway Act of 1991.

"(c) PROJECT SELECTION WITHIN TRANSPORTATION MANAGEMENT AREAS.—

"(1) APPROVAL OF PROJECTS.—For projects within a transportation management area, the metropolitan planning organization shall submit to the Governor and the Secretary a list of highway and transit projects and activities that the metropolitan planning organization has approved for funding in the ensuing period, which shall not exceed 2 years. The list shall specify for each approved project the programmatic source of Federal assistance available for approval by the metropolitan planning organization. Federal assistance required for the approved projects and activities shall not exceed Federal assistance made available for project selection by the metropolitan planning organization for that period under section 106 of the Federal-Aid Highway Act of 1991 and sections 3 and 9 of this Act. When submitting a list of projects and activities under this paragraph, the metropolitan planning organization shall certify to the Secretary that the list—

"(A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4)(E); and

"(B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

"(2) REQUIREMENT OF APPROVAL.—Notwithstanding any other provision of law, no project or activity to be carried out with Federal participation pursuant to the Federal-Aid Highway Act of 1991 or this Act may be approved within a transportation management area unless it is included in the list of projects approved by the metropolitan planning organization under paragraph (1).

"(3) EXCEPTIONS.—(A) Paragraph (2) shall not apply to projects or activities that in the determination of the Secretary, are mandated by the Americans with Disabilities Act of 1990.

"(B) Nothing in this section confers on a metropolitan planning organization the authority to intervene in the management of a transportation agency.

"(4) RECAPTURE.—Amounts made available under the Federal-Aid Highway Act of 1991 or this Act for project selection by a metropolitan planning organization in a transportation management area shall remain available for a period of 3 years following the close of the fiscal year for which such funds are made available to the

metropolitan area. The Secretary shall recapture any funds not obligated during such period and reallocate the funds nationally as soon as practicable according to the formula for the program under which the funds were made available. For the purposes of this paragraph, funds shall be considered to be obligated if the funds are reserved to help finance a project for which an application is pending under section 3.

"(5) TRANSFER OF FUNDS.—Funds made available for a highway project under this Act shall be transferred to and administered by the Federal Highway Administration in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of this Act.

"(d) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into agreements with other Federal departments and agencies, for the planning, engineering, design, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition or improved operation of mass transportation facilities and equipment.

"(2) CRITERIA.—A grant, contract or working agreement under this section shall be made in accordance with criteria established by the Secretary.

"(e) PRIVATE ENTERPRISE.—The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(f) USE FOR COMPREHENSIVE PLANNING.—

"(1) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that amounts made available under section 21(c)(1) for the purposes of this section are used to support balanced and comprehensive transportation planning that takes into account the relationships among land use and all transportation modes, without regard to the programmatic source of the planning funds.

"(2) FORMULA ALLOCATION TO ALL METROPOLITAN AREAS.—The Secretary shall apportion 80 percent of the amounts made available under section 21(c)(1) to States in the ratio that the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this paragraph. Such funds shall be allocated to metropolitan planning organizations designated under section 8(a)(2)(A) by a formula, developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary, that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act. The State shall make such funds available promptly to eligible metropolitan planning organizations according to procedures approved by the Secretary.

"(3) SUPPLEMENTAL ALLOCATION TO TRANSPORTATION MANAGEMENT AREAS.—The Secretary shall apportion 20 percent of the amounts made available under section 21(c)(1) to States to supplement allocations under subparagraph (B) for metropolitan planning organizations in transportation management areas. Such funds shall be allocated according to a formula that reflects the additional costs of carrying out planning, programming, and project selection responsibilities under this section in such areas.

"(4) HOLD HARMLESS.—The Secretary shall ensure, to the maximum extent practicable, that no metropolitan planning organization is allocated less than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991. To comply with the previous sentence, the Secretary is authorized to make a pro rata reduction in other amounts made available to carry out section 21(c).

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for activities under this paragraph shall be 75 percent except where the Secretary determines that it is in the Federal interest not to require a State or local match.".

SEC. 320. SECTION 9 PROGRAM—ALLOCATIONS.

Section 9(a) of the Act (49 U.S.C. App. 1607a(a)), is amended—

(1) in paragraph (1), by striking "8.64" and inserting "8.90"; and

(2) in paragraph (2), by striking "88.43" and inserting "91.10".

SEC. 321. SECTION 9 FORMULA GRANT PROGRAM—DISCRETIONARY TRANSFER OF APPORTIONMENT.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended—

(1) in subsection (j)(1), by inserting after the first sentence the following: "In a transportation management area designated pursuant to section 8(a)(2)(D), grants for construction projects under this section also shall be available for highway projects if—

"(A) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers; and

"(B) in the determination of the Secretary, appropriate provision is made for investments mandated by the Americans with Disabilities Act of 1990."; and

(2) by adding at the end of subsection (j) the following:

"(3) Grants for construction projects under this section may be available for highway projects only if funds used for the State or local share portion of such highway projects are eligible to fund either highway or transit projects, or, when in the determination of the Secretary there exists under State or local law a sufficient amount of funds from a dedicated source which is available to fund local transit projects.".

SEC. 322. SECTION 9 PROGRAM—ELIMINATION OF INCENTIVE TIER.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended—

(1) in subsection (b)(2), by striking "95.61 per centum of the" and inserting "The";

(2) in subsection (b), by striking paragraph (3);

(3) in subsection (c)(2), by striking "90.8 per centum of the" and inserting "The"; and

(4) by striking subsection (c)(3).

SEC. 323. SECTION 9 PROGRAM—ENERGY EFFICIENCY.

Section 9(b) of the Act (49 U.S.C. 1607a(b)) is amended by adding at the end the following:

"(3) If a designated recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce equipment use but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under paragraph (2)(B) shall not be reduced as a result of such actions.".

SEC. 324. SECTION 9 PROGRAM—APPLICABILITY OF SAFETY PROVISIONS.

Section 9(e)(1) of the Act (49 U.S.C. App. 1607a(e)(1)) is amended in the first sentence by striking "and 19", and inserting "19, and 22".

SEC. 325. SECTION 9 PROGRAM—CERTIFICATIONS.

(a) ANNUAL SUBMISSIONS.—Section 9(e)(2) of the Act (49 U.S.C. App. 1607a(e)(2)) is amended by inserting after the first sentence the following: "Such certifications and any additional certifications required by law shall be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall annually publish a list of all required certifications in conjunction with section 9(q).".

(b) STREAMLINED PROCEDURES.—Section 9(e)(3) of the Act (49 U.S.C. App. 1607a(e)(3)) is amended by adding at the end the following: "The Secretary shall establish streamlined administrative procedures to govern compliance with the certification requirement under subparagraph (B) with respect to track and signal equipment used in ongoing operations.".

SEC. 326. SECTION 9 PROGRAM—PROGRAM OF PROJECTS.

Section 9(f) of the Act (49 U.S.C. App. 1607a(f)) is amended—

(1) at the end of paragraph (3), by striking "and";

(2) at the end of paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) assure that the proposed program of projects provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.".

SEC. 327. FERRY ROUTES.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended by adding at the end thereof the following new subsection:

"(r) FERRY SERVICES.—A vessel used in ferryboat operations funded under this section that is part of a statewide ferry system may from time to time be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance so long as the mass transportation service funded under this section is not thereby significantly reduced.".

SEC. 328. SECTION 9 PROGRAM—CONTINUED ASSISTANCE FOR COMMUTER RAIL IN SOUTHERN FLORIDA.

Section 329 of the Federal Mass Transportation Act of 1987 (101 Stat. 239) is amended—

(1) in the first sentence, by striking all that follows "year" and inserting a period; and

(2) in the second sentence, by striking all that follows "service" and inserting a period.

SEC. 329. SECTION 11—UNIVERSITY TRANSPORTATION CENTERS.

Section 11 of the Act (49 U.S.C. App. 1607c) is amended—

(1) in the third sentence of subsection (a), by inserting "safety," after "engineering,";

(2) by striking paragraph (7) of subsection (b) and inserting the following:

"(7) PROGRAM COORDINATION.—The Secretary shall provide for coordination of the research, education, training and technology transfer in the research centers, the dissemination of the results of the research, and a clearinghouse between the centers and the transportation industry. The Secretary shall review and evaluate the programs carried out by the grant recipients at least annually.";

(3) by striking paragraph (8) of subsection (b) and inserting the following:

"(8) ADMINISTRATION.—Up to 1 percent of the funds made available from any source to carry out this subsection shall be available to the Sec-

retary for the administrative expenses in connection with the performance of such administrative responsibilities."; and

(4) by adding at the end of subsection (b) the following:

"(11) AVAILABILITY OF RESEARCH FUNDS.—Notwithstanding any other provision of law, funds appropriated or otherwise made available to the Department of Transportation in any Act for the purpose of transportation research may, at the discretion of the Secretary, be made available to one or more of the transportation research centers for the conduct of research compatible with the research conducted in such centers pursuant to authorizations under this Act or from the Highway Trust Fund.

"(12) NATIONAL CENTERS.—To accelerate the involvement and participation of minorities and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants to colleges or universities to establish three additional National Centers for Transportation Management, Research, and Development. The National Centers shall give special attention to the design, development, and implementation of research, training, and technology transfer activities to increase the number of highly skilled minorities and women in the work force. The Centers shall meet all guidelines and criteria applicable to Centers under this subsection. In awarding the grants, the Secretary shall consider the commitment which the college or university demonstrates to enrollment of minorities and women.".

SEC. 330. RULEMAKING.

Section 12(i) of the Act (49 U.S.C. App. 1608(i)) is amended by adding at the end the following:

"(3) LIMITATION.—The Secretary may not use any other method to propose or implement rules governing activities under this Act except as provided under this subsection.".

SEC. 331. SECTION 12—TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 of the Act (49 U.S.C. App. 1608) is amended by adding at the end the following:

"(l) TRANSFER OF CAPITAL ASSET.—

"(1) AUTHORIZATION.—If a recipient determines that facilities and equipment acquired with assistance under this Act no longer are needed for their original purposes, the Secretary may authorize the transfer of such assets to any public body to be used for any public purpose, with no further obligation to the Federal Government, on condition that any such facilities (including land) remain in public use for a period of not less than 5 years after the date of the transfer.

"(2) DETERMINATION.—Before authorizing a transfer under paragraph (1) for any public purpose other than mass transportation, the Secretary shall first determine that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used;

"(B) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(C) in the case of facilities (including land), the Secretary determines through an appropriate screening or survey process that there is no interest in acquiring the asset for Federal use.

"(3) DOCUMENTATION.—Where the Secretary finds that a transfer is warranted, the Secretary shall set forth in writing the rationale for the decision that the transfer is appropriate under the standards in paragraph (2).

"(4) RELATION TO OTHER PROVISIONS.—The provisions of this section shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 332. SPECIAL PROCUREMENT.

Section 12 of the Act (49 U.S.C. App. 1608) is amended by adding at the end the following:

"(m) SPECIAL PROCUREMENT INITIATIVES.—

"(1) TURNKEY SYSTEM PROCUREMENTS.—

"(A) IN GENERAL.—In order to advance new technologies and lower the cost of constructing new mass transportation systems, the Secretary may allow the solicitation for a turnkey system project to be funded under this Act to be conditionally awarded before Federal requirements have been met on the project so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under this Act may be made available for such a project when the recipient has complied with relevant Federal requirements.

"(B) INITIAL DEMONSTRATION PHASE.—In order to develop regulations applying generally to turnkey system projects, the Secretary is authorized to approve not to exceed 4 projects for an initial demonstration phase. The results of such demonstration projects shall be taken into consideration in the development of the regulations implementing this subsection.

"(C) TURNKEY SYSTEM PROJECT DEFINED.—As used in this subsection, the term 'turnkey system' means a vendor-specific project under which a recipient contracts with a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time.

"(2) MULTIYEAR ROLLING STOCK PROCUREMENTS.—

"(A) IN GENERAL.—A recipient procuring rolling stock with Federal financial assistance under this Act may enter into a multiyear agreement for the purchase of such rolling stock and replacement parts pursuant to which the recipient may exercise an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

"(B) CONSORTIA.—The Secretary shall permit 2 or more recipients to form a consortium (or otherwise act on a cooperative basis) for purposes of procuring rolling stock in accordance with this paragraph and other Federal procurement requirements.".

SEC. 333. SECTION 16—ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 16 of the Act (49 U.S.C. App. 1612) is amended—

(1) by striking "elderly and handicapped persons" each time the phrase appears and inserting "elderly persons and persons with disabilities";

(2) in subsection (b)(2), by striking "to private nonprofit corporations and associations" and all that follows through "inappropriate," and inserting "to the Governor of each State for allocation to private nonprofit organizations and public bodies approved by the State to coordinate transportation services to elderly persons and persons with disabilities for the specific purpose of assisting such organizations and public bodies to provide transportation services to elderly persons and persons with disabilities,";

(3) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(4) by inserting after subsection (b) the following:

"(c)(1) Funds made available for purposes of subsection (b) may be used for transportation projects to assist in the provision of transportation services for elderly persons and persons with disabilities which are included in a State program of projects. Such programs shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Federal sources.

"(2) Sums made available for expenditure for purposes of subsection (b) shall be apportioned to the States on the basis of a formula administered by the Secretary which shall take into consideration the number of elderly persons and persons with disabilities in each State.

"(3) Any amounts of a State's apportionment under this subsection that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for transfer to supplement funds apportioned to the State under section 18(a) or section 9(d).

"(4) The Secretary shall, within 60 days following the enactment of the Federal Transit Act of 1991, promulgate regulations to allow vehicles purchased under this section to be leased to local public bodies and agencies for the purpose of improving transportation services designed to meet the special needs of elderly persons and persons with disabilities.".

SEC. 334. MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.

Section 16 of the Act (49 U.S.C. App. 1612) is amended by adding at the end the following:

"(g) MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.—In order to carry out subsection (a), the Secretary shall authorize mass transportation service providers receiving assistance under this section or section 18(a) to coordinate and assist in providing meal delivery service for homebound persons on a regular basis, if the activities authorized do not—

"(1) conflict with the provision of mass transportation services; or

"(2) result in a reduction of service to mass transportation passengers.".

SEC. 335. SECTION 18—TRANSFER OF FACILITIES AND EQUIPMENT.

Section 18 of the Act (49 U.S.C. App. 1614) is amended—

(1) by striking subsection (g) and redesignating subsection (h) as subsection (g); and

(2) by adding at the end the following:

"(h) TRANSFER OF FACILITIES AND EQUIPMENT.—In addition to the transfer authority under section 12(k), in administering this section, the State may transfer facilities and equipment acquired with assistance under this section or section 16(b) to any recipient eligible to receive assistance under this Act if the equipment or facilities continues to be used in accordance with the requirements of this section or section 16(b), as appropriate.".

SEC. 336. SECTION 18—GRANTS TO OFFSET AMTRAK LOSSES.

Section 18 of the Act (49 U.S.C. App. 1614) is amended by adding at the end the following:

"(i) AMTRAK LOSSES.—The amounts apportioned under subsection (a) to Maine, South Dakota, and Oklahoma may be used by such State to offset operating losses incurred by Amtrak in any calendar year as a result of providing passenger rail service to such State on the basis of an application pursuant to section 403 of the Rail Passenger Service Act (45 U.S.C. 563), and in conjunction with cost-sharing under subsection (b) of such section. Not more than 50 percent of a State's share of the operating losses incurred by Amtrak in such State may be offset with funds available under this section.".

SEC. 337. HUMAN RESOURCES PROGRAM SUPPORT.

Section 20 of the Act (49 U.S.C. App. 1616) is amended—

(1) by inserting "(a) IN GENERAL.—" before the first sentence; and

(2) by adding at the end the following:

"(b) USE OF FUNDS.—The Secretary is authorized to retain any funds returned to the Sec-

retary in connection with a grant or contract under subsection (a), and such funds may continue to be used for the purpose of subsection (a).".

SEC. 338. AUTHORIZATIONS.

Section 21 of the Act (49 U.S.C. App. 1617) is amended to read as follows:

"SEC. 21. AUTHORIZATIONS.

"(a) FORMULA GRANT PROGRAMS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $1,070,500,000 for the fiscal year 1992, $1,220,000,000 for the fiscal year 1993, $1,300,000,000 for the fiscal year 1994, $1,450,000,000 for the fiscal year 1995, and $1,565,000,000 for the fiscal year 1996, to remain available until expended.

"(2) AUTHORIZED TO BE APPROPRIATED FROM THE TRUST FUND.—In addition to the amounts specified in paragraph (1), there are hereby authorized to be appropriated from the Transit Account of the Highway Trust Fund to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $450,000,000 for the fiscal year 1992, $525,000,000 for the fiscal year 1993, $550,000,000 for the fiscal year 1994, $400,000,000 the fiscal year 1995, $300,000,000 for the fiscal year 1996, to remain available until expended.

"(3) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraphs (1) and (2), there are hereby authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $990,000,000 for the fiscal year 1992, $862,000,000 for the fiscal year 1993, $801,000,000 for the fiscal year 1994, $981,500,000 for the fiscal year 1995, and $1,160,000,000 for the fiscal year 1996, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $535,000,000 for the fiscal year 1992, $580,000,000 for the fiscal year 1993, $680,000,000 for the fiscal year 1994, $750,000,000 for the fiscal year 1995, and $835,000,000 for the fiscal year 1996, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are hereby authorized to be appropriated to carry out section 3 of this Act, $775,000,000 for the fiscal year 1992, $780,000,000 for the fiscal year 1993, $798,600,000 for the fiscal year 1994, $828,900,000 for the fiscal year 1995, and $850,400,000 for the fiscal year 1996, to remain available until expended.

"(3) CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant or contract with funds made available under subsection (a)(1) or (b)(1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project. Approval by the Secretary of a grant or contract with funds made available under subsection (a)(2), (a)(3) or (b)(2) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project only to the extent that amounts are provided in advance in appropriations Acts.

"(c) SET-ASIDE FOR PLANNING, PROGRAMMING AND RESEARCH.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), an amount equivalent to 3.0 percent of funds made available or appropriated under subsections (a) and (b), and appropriated under the National Capital Transportation Act of 1969 shall be made available until expended as follows:

"(1) 45 percent of such funds shall be made available for metropolitan planning activities under section 8(f);

"(2) 5 percent of such funds shall be made available to carry out section 18(h);

"(3) 20 percent of such funds shall be made available to carry out the State program under section 26(a); and

"(4) 30 percent of such funds shall be made available to carry out the national program under section 26(b).

"(d) OTHER SET-ASIDES.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), of the funds made available or appropriated under subsections (a) and (b) and appropriated under the National Capital Transportation Act of 1969—

"(1) not to exceed an amount equivalent to 1.22 percent shall be available for administrative expenses to carry out section 12(a) of this Act and shall be available until expended;

"(2) not to exceed an amount equivalent to 1.5 percent shall be available for transportation services to elderly persons and persons with disabilities pursuant to the formula under section 16(b) of this Act, to be available until expended; and

"(3) $5,000,000 shall be available for the purposes of section 11(b) relating to university transportation centers for each of fiscal years 1992 through 1996.

"(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b), after allocation pursuant to subsections (c) and (d), for substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, there shall be available $160,000,000 for fiscal year 1992 and $164,843,000 for fiscal year 1993.

"(f) SET-ASIDE FOR RURAL TRANSPORTATION.—An amount equivalent to 6 percent of the amounts remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), and (e), shall be available pursuant to the formula under section 18, to remain available until expended.

"(g) SECTION 9 FUNDING.—The funds remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), (e) and (f), shall be available under section 9.".

SEC. 339. REPORT ON SAFETY CONDITIONS IN MASS TRANSIT.

Section 22 of the Act (49 U.S.C. App. 1618) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) REPORT.—The Secretary shall, within 180 days after the date of enactment of this subsection, make a report to Congress to include—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths and injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting actions,

"(B) an estimate of the capital and operating cost to take such actions, and

"(C) minimum standards for establishing and implementing safety plans by recipients of funds under this Act.".

SEC. 340. SECTION 23—PROJECT MANAGEMENT OVERSIGHT.

Section 23(a) of the Act (49 U.S.C. App. 1619(a)) is amended—

(1) by striking paragraphs (1) through (5);

(2) by striking "½ of 1 percent of—" and inserting "¾ of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, or interstate transfer transit projects under section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section.".

SEC. 341. SECTION 26—PLANNING AND RESEARCH.

The Act is amended by adding at the end the following:

"SEC. 26. PLANNING AND RESEARCH PROGRAM.

"(a) STATE PROGRAM.—The funds made available under section 21(c)(3) shall be available for State programs as follows:

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—50 percent of that amount shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of that amount shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act.

"(A) APPORTIONMENT FORMULA.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under this subsection to be used to supplement funds available under subsection (a)(1), as the State deems appropriate.

"(b) NATIONAL PROGRAM.—

"(1) IN GENERAL.—The funds made available under section 21(c)(4), shall be available to the Secretary for grants or contracts for the purposes of section 6, 8, 10, 11, or 20 of this Act, as the Secretary deems appropriate.

"(2) COMPLIANCE WITH ADA.—Of the amounts available under paragraph (1), the Secretary shall make available not less than $2,000,000 to provide transit-related technical assistance, demonstration programs, research, public education, and other activities that the Secretary deems appropriate to help transit providers achieve compliance with the Americans with Disabilities Act of 1990. To the extent practicable, the Secretary shall carry out this subsection through contract with a national nonprofit organization serving persons with disabilities with demonstrated capacity to carry out these activities.

"(3) SPECIAL INITIATIVES.—Of the amounts available under paragraph (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements, and provisions as the Secretary deems consistent with the requirements of this Act, except that the provisions of section 3(e)(4) shall apply to operational grants funded for purposes of section 6. For nonrenewable grants that do not exceed $100,000, the Secretary shall provide expedited procedures governing compliance with requirements of this Act.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) PROGRAM.—The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) INDUSTRY TECHNICAL PANEL.—The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) GUIDELINES.—The Secretary shall develop guidelines for cost sharing in technology development projects funded under the section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market risk, and anticipated supplier benefits and pay back periods.

"(5) SUPPLEMENTARY FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (a)(1), as the Secretary deems appropriate.

"(6) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (a)(1), the Secretary shall establish a Federal share consistent with that benefit.".

SEC. 342. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated before October 1, 1983, under section 6, 10, 11, or 18 of the Act, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, that remain available for expenditure after October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 343. GAO REPORT ON CHARTER SERVICE REGULATIONS.

The Comptroller General of the United States shall submit to the Congress, not later than 12 months after the date of the enactment of the Act, a report evaluating the impact of existing charter service regulations. The report shall—

(1) assess the extent to which the regulations promote or impede the ability of communities to meet the transportation needs of government, civic, and charitable organizations in a cost-effective and efficient manner;

(2) assess the extent to which the regulations promote or impede the ability of communities to carry out economic development activities in a cost-effective and efficient manner;

(3) analyze the extent to which public transit operators and private charter carriers have entered into charter service agreements pursuant to the regulations; and

(4) analyze the extent to which such agreements enable private carriers to profit from the provision of charter service by public transit operators using federally subsidized vehicles.

The report shall also include an assessment of the factors specified in the preceding sentence within the context of not less than three communities selected by the Comptroller General.

SEC. 344. GAO STUDY ON PUBLIC TRANSIT NEEDS.

The Comptroller General of the United States shall, on a biennial basis, submit a report to the Congress evaluating the extent to which the Nation's transit needs are being adequately addressed. The report shall include:

(1) An assessment of the unmet needs for transit, as reflected by the unmet, existing maintenance, and modernization needs of transit systems throughout the Nation.

(2) A 5-year projection of the maintenance and modernization needs that will result from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems.

(3) A 5-year projection of the need to invest in the expansion of existing transit systems to meet changing economic, commuter, and residential patterns.

(4) An estimate of the level of expenditure needed to satisfy the needs identified above.

(5) An examination of existing Federal, State, and local resources as well as private resources that are or can reasonably be expected to be made available to support public transit.

(6) The gap between the level of expenditure estimated under paragraph (4) and the level of resources available to meet such needs identified under paragraph (5).

SEC. 345. USE OF POPULATION ESTIMATES.

(a) URBAN MASS TRANSIT PROGRAM.—Section 5(a) of the Act (49 U.S.C. App. 1604(a)) is amended—

(1) in paragraph (1)(A)(i), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce";

(2) in paragraph (2)(A)(i)(1), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce"; and

(3) in paragraph (2)(A)(ii)(1), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

(b) BLOCK GRANTS.—Section 9(d)(1) of the Act (49 U.S.C. App. 1607a(d)(1)) is amended by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

(c) FORMULA GRANT PROGRAM FOR AREAS OTHER THAN URBANIZED AREAS.—Section 18(a) of the Act (49 U.S.C. App. 1614(a)) is amended in the second sentence by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

SEC. 346. SECTION 9B—TECHNICAL AMENDMENT.

Section 9B(a) of the Act (49 U.S.C. App. 1607a–2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 347. USE OF CENSUS DATA.

For fiscal year 1992, the Secretary of Transportation shall use data from the 1990 Federal census, to the extent practicable, in determining the allocation of funds under sections 9, 16(b)(2), and 18 of the Act. The Secretary of Transportation and the Secretary of Commerce shall coordinate efforts to expedite the availability of census data for such use and to ensure that census data is collected and prepared in a form that is appropriate to the needs of the Department of Transportation. The Secretary of Transportation shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of actions taken pursuant to this subsection not later than 9 months following the date of enactment of this Act.

TITLE IV—PRIVATE PROPERTY RIGHTS

SEC. 401. PRIVATE PROPERTY RIGHTS ACT.

(a) SHORT TITLE.—This section may be cited as the "Private Property Rights Act".

(b) DEFINITIONS.—As Used in this section:

(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the Executive Branch of the United States Government.

(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the Fifth Amendment to the Constitution of the United States.

(c) PROTECTION OF PRIVATE PROPERTY.—

(1) No regulation promulgated after the date of enactment of this section by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

(2) Upon receipt of guidelines proposed by an agency for compliance with the procedures referenced in paragraph (1), the Attorney General shall, in a reasonably expeditous manner, either approve such guidelines, or notify the head of such agency of any revisions or modification necessary to obtain approval.

(d) JUDICIAL REVIEW.—

(1) Judicial review of actions or asserted failures to act pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency is in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action.

The PRESIDENT pro tempore appointed:

From the Committee on Environment and Public Works only for matters within its jurisdiction: Mr. MOYNIHAN, Mr. BURDICK, Mr. MITCHELL, Mr. LAUTENBERG, Mr. REID, Mr. CHAFEE, Mr. SYMMS, Mr. WARNER, Mr. DURENBERGER.

From the Committee on Commerce, Science, and Transportation only for matters within its jurisdiction: Mr.

HOLLINGS, Mr. EXON, Mr. BRYAN, Mr. DANFORTH, Mr. GORTON.

From the Committee on Banking, Housing, and Urban Affairs only for matters within its jurisdiction: Mr. RIEGLE, Mr. CRANSTON, Mr. SARBANES, Mr. BOND, Mr. D'AMATO.

From the Committee on Finance only for matters within its jurisdiction: Mr. BENTSEN, Mr. MOYNIHAN, Mr. BAUCUS, Mr. PACKWOOD, Mr. DOLE.

From the Committee on Governmental Affairs only for the consideration of the Uniform Relocation Act Amendment: Mr. GLENN, Mr. LEVIN, and Mr. ROTH conferees on the part of the Senate.

NATIONAL ENERGY SECURITY ACT

Mr. WIRTH. Mr. President, I will yield the floor in about 2 minutes. But I wanted to first try to take a couple of minutes to set the scene for the coming cloture vote and discussion about the cloture vote.

The energy bill has been brought to the floor and the attempt now is to proceed to the energy bill. There are a number of us who feel very strongly that it is wrong for us in the Senate to proceed to the energy bill as it is currently constructed. This debate has gone on for some time. As a Member of the Energy Committee, I have been deeply engaged in working on that energy bill, and as the distinguished chairman of the Energy Committee, Senator JOHNSTON, has pointed out on any number of occasions, much of what is in that bill I wrote in terms of energy conservation, natural gas regulation, alternative fuels and so on.

There are many good provisions in the bill. We would have had that bill and those provisions on the floor months ago had it not been for a single title that is enormously controversial. There are many other items in the bill that raise controversy, but the title related to the Arctic National Wildlife Refuge and whether we should be drilling in the Arctic has held up that bill and caused enormous controversy.

A number of us have attempted, on any number of occasions, to provide a compromise, to offer a compromise strategy, for bringing up the energy bill. We have on a number of occassions offered to have the main part of the energy bill come up, to be followed by two separate bills, one a corporate average fuel economy, and one on the Arctic National Wildlife Refuge.

Those could each be treated discretely. Both of those are surrounded by a great deal of controversy and both raise significant issues of committee jurisdiction. I would like to get on with the overall energy policy and have those two controversial elements be dealt with separately. That is what this debate is all about.

There has been a refusal to do this, and that gets us into a very difficult position. Two issues that we feel very strongly about are being badly compromised. We do not believe that considering S. 1220 provides a process under which the Senate ought to be operating, and that is the reason for this procedural issue.

I will be back later to talk about the specifics of these, as will many of my colleagues. But I wanted to take a couple of minutes in morning business to lay out simply that, speaking for myself, we would not have this filibuster, we would not have all of this blood on the floor of the Senate, we would not have all of this controversy, if the very simple compromise process that I have suggested—having this come up as three separate bills—had been agreed to. We have been trying to do that and had no response in a positive way, for which we are sorry.

That offer remains open for all of our colleagues, and I suggest that they might want to speak to the managers of the bill on both sides and see if we can get through this by breaking off those two elements and having them considered separately, and let us work on the overall energy bill.

I yield the floor.

THE ENERGY BILL

Mr. WELLSTONE. Mr. President, I want to reinforce the comments of the Senator for Colorado. I serve on the Energy Committee under the distinguished leadership of Senator JOHNSTON. And as the Senator from Louisiana knows, I have consistently, over the months, taken very serious exception with any number of different provisions of this bill. Shortly, I will be speaking about those provisions.

But even though I think the breadth of my criticism perhaps goes a little bit broader or deeper than that of the Senator from Colorado, we may even have some disagreement about some other provisions. I am in complete agreement with what the Senator had to say, which is that we have tried very hard, Mr. President, to be engaged in, I think, important negotiations so that we can work around consensus. And I believe that what could have happened, and what I hope still will happen, is that certain key provisions—especially the oil drilling in the Arctic National Wildlife Refuge which is so contentious, and the question of fuel efficiency standards—will be separated out. Perhaps, still, we will have the opportunity to work out something like that.

But in the absence of such an agreement, I, too, this morning, will oppose the motion to proceed, and I do not do this lightly, Mr. President. There will probably be very, very few times in the U.S. Senate when I will be speaking against a motion to proceed. But in this particular case, I believe that I have no other choice.

I, too, want to set the stage and the context, so that this debate will not be an acrimonious debate, but a real debate. The U.S. Senate is known for real debates, and one is about to take place.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I may speak for 15 minutes in morning business.

The PRESIDENT pro tempore. Is there objection to the request? It would mean morning business would be extended 10 minutes beyond the hour of 10 o'clock.

Mr. CHAFEE. Mr. President, that would extend it to 10 past 10?

The PRESIDENT pro tempore. It would.

Mr. CHAFEE. I have no objection.

The PRESIDENT pro tempore. The Chair also calls attention to the fact that the 10 minutes would come off the 3 hours on the motion to proceed. Is there objection?

The Chair hears no objection.

The Senator from Minnesota [Mr. WELLSTONE] is recognized for 15 minutes.

THE NATIONAL ENERGY SECURITY ACT

Mr. WELLSTONE. Mr. President, I rise to oppose the motion to proceed to S. 1220, and I do so because I believe S. 1220 is so fundamentally flawed that it is not even an acceptable starting point for a rational energy strategy.

To begin with, S. 1220 is not an energy policy. It is a nonenergy policy. It does not address our two most fundamental long-term energy problems: First, our excessive and growing dependence on imported energy, which in turn threatens our national security and also threatens the health of our economy; and, second, the greatest threat to our world environment; namely, the problem of global warming and related climate change that could have devastating impacts on the world.

S. 1220 does not do anything significant to solve either of these problems. It does not, and it cannot, change the fundamental situation with regard to our dependence on imported oil. No matter how hard we try, Mr. President, we cannot legislate geology. If we open up the Arctic National Wildlife Refuge

to oil drilling—which is the primary goal of this bill—we will not change the fact that only 3 percent of the world's oil reserves are in the United States, and roughly 65 percent are in the Middle East.

ANWR oil—if it is found in the quantities now predicted—will only add marginally to our domestic production for a short time, perhaps 20 years. At most, it will satisfy only 2 to 3 percent of our total domestic oil consumption at a very high cost—a high economic cost, and even a high environmental cost. But when all is said and done, as the Department of Energy has pointed out, 40 years from now we will be importing twice as much oil and other energy fuels. There simply is no way we can produce our way out of oil dependency by drilling in the Arctic refuge, sensitive areas of the Outer Continental Shelf, or similar lands.

Mr. President, even if we could, it would spell disaster for the global environment. Oil is a fossil fuel, and fossil fuel burning releases carbon dioxide, which is the principal greenhouse gas generated by human beings and the single most important cause of global warming.

(Mr. REID assumed the chair.)

Mr. WELLSTONE. Mr. President, energy use and production account for about 57 percent of the global warming problem. Yet the bill before us, S. 1220, does not even have a finding on global warming, and it does not ask us to do anything serious about it. In fact, it encourages more production and consumption of all fossil fuels—oil, gas, and coal—well into the next century, as well as more nuclear power and nuclear waste.

Mr. President, this is an anachronistic bill, a backward-looking bill based on discredited assumptions of the past; it is a bill that does not deal with the most important problems we face in the future—in fact it does not even recognize their existence. It is not just the foolishness and greed of destroying the Arctic Wildlife Refuge, one of our last truly pristine wilderness areas, this bill is fatally flawed from start to finish. It is conceptually impoverished; it is totally lacking in vision as to what is possible technologically, what is sound economically, what is sensible environmentally, and what is sustainable in the future. Mr. President, this bill would take us down the wrong path to the future, and it deserves no time on the floor of the Senate.

How did it get here? Why are we presented with this monstrosity? Who wants it?

One thing is certain, most of the people of this country do not want this energy bill. This is not the kind of energy bill they want. Every poll and survey and town meeting I know of on the subject indicates that what the people want is a new national energy policy based on conservation, on energy efficiency, and on renewable energy.

Let me illustrate this with just one well-known poll. This is a bipartisan opinion poll on the national energy strategy published on January 11 of this year, just before the Persian Gulf war. In this poll the people were asked, if they could choose their top priority for research and development funding by the Department of Energy, what would it be? My chart shows the results: Nuclear 10 percent, coal and oil 12 percent, renewables and conservation 75 percent.

So 75 percent of the people said we should put the money into renewables and conservation; only 12 percent said we should put it into coal and oil; and even fewer, 10 percent, said we should put it into nuclear power. This is the message that has come through from the American people over and over again.

When the Bush administration set out to develop its national energy strategy, this is exactly what they discovered. The NES Task Force went out and held hearings across the country, at which hundreds of people stepped forward and expressed ideas. And what did they say?

New I quote from the DOE finding from the public hearings:

> People in all parts of the country expressed concern about what energy production and consumption are doing to our air, water, and land. We heard concern about acid rain, urban air pollution, oil spills, the safety of nuclear powerplants, our ability to harmlessly dispose of radioactive wastes, and possible global climate change resulting from the use of fossil fuels. Many were concerned about the need to develop advanced technology to convert and control energy in an environmentally sound way.

That is what the people said in these public hearings. I bet that is what people in the gallery would say. We are concerned about the environment.

> The loudest single message was to increase energy efficiency in every sector of energy use. Energy efficiency was seen as a way to reduce pollution, reduce dependence on imports, and reduce the costs of energy.

But something funny happened to energy policy on its way back to Washington. When energy policy got away from the people, away from the grassroots, and back to the Department of Energy and the White House, something entirely different came out. Virtually all of the proposals—and there were a great many—for efficiency and conservation and renewable energy were stripped off the list of policy options—first by the Department of Energy, then by the White House.

So what happened? Why were all these ideas and proposals cut out?

I believe two fundamental things happened. First, once energy policy got back to Washington, DC it was captured and controlled by the big corporate energy lobbies right here in town. The big oil companies, the auto companies, the big utility interests, and all the big corporate and financial interests that have, or want to have, stakes in the energy business had their say. And low and behold, what started out as a new direction, what the vast majority of the people were calling for, ended up as an energy policy for the special interests, and for the big money that dominates politics in Washington, DC. The national energy strategy became a wish list of all the subsidies and regulatory rollbacks that the big energy corporations could think of.

The second thing that happened was that every proposal had to pass an ideological litmus test. What the public wanted got screened out by Mr. Sununu and Mr. Darman and Mr. Boskin at the White House. In some cases, they barred the door steadfastly refusing to allow anything which might interfere with the free workings of the marketplace into the national energy strategy. Of course, in others, if the proposal supported nuclear power, or oil drilling on public lands, or building big coal combustion demonstration plants, the door was thrown wide open.

Mr. President, what we have before us, I am sorry to say, is no different. This bill is the stepchild of the NES. Or, you can look at it this way: if the national energy strategy is the whole feast, then S. 1220 is the stuffed turkey. It is based on the same premises, and has virtually the same titles, as the bill the President sent up to Congress. It is endorsed by the White House. And it is a highly political, narrowly ideological, special interest bill that does not have much in common with what the people want—in fact its just about the opposite of what the people said they wanted.

I could illustrate that in any number of ways, but I will just point to one set of figures from the estimated budget of S. 1220.

Even if we ignore the $11 billion—and I want to repeat this figure, the $11 billion debt writeoff, and other giveaways CBO does not count, we can see that the titles that cover energy conservation and renewable, titles III to VI, account for only 24 percent of the estimated authorizations, and the titles that are oriented toward more production and use of nuclear and fossil fuels, titles VII to XVI, account for 76 percent of the budget, or three times as much. Now that is exactly the opposite of the priorities that were expressed by people in public hearings. And in fact if you look at the bill, only 2 percent—that is right, 2 percent—is for renewables. That is pittance, and it is an insult to the American people because people have called for much more.

In fact, this energy bill does not make any basic change in the direction of our past energy policies. It is not a balanced bill that will give us the best of both worlds, but a bill that compounds many of our past energy mistakes. It continues down the wrong energy path.

Since 1981, when we began the Reagan/Bush era, energy efficiency and renewable energy efforts have been systematically dismantled. At first, the White House wanted to abolish the Department of Energy altogether, and appointed a dentist to be the first Secretary of Energy to carry out the charge. While he did not manage to dismantle DOE, he cut spending on renewable energy and conservation by 90 percent, including all the commercialization programs.

The 1980's were a lost decade for energy policy. We buried our heads in the sand, and pretended no problem existed because the artificial price of oil came down. We largely abandoned solar and other renewable energy projects and told people to stop conserving.

Will S. 1220 reverse this trend and take us in a different direction?

No, it will not. There is very little in this bill that will save any oil, or lead to the rapid introduction of energy efficient technologies, or develop any new renewable sources. The proponents of the bill claim there are a lot of efficiency and renewable provisions in it. Well, it may look like a lot if you list all the sections and subsections of the bill, but if you look into what's really in there, you will find there is not much substance. Even the Department of Energy's own projections show little energy savings resulting for the voluntary programs, studies, and other window-dressing efficiency provisions of the NES. Yes, there are chapters and titles, but there is really nothing to back this up in terms of solid substance.

But instead of focusing on what is not in this bill, let me briefly turn to the other side of the coin—the industry giveaways which are in this bill. This bill has become a giant Christmas tree of goodies for the special interests, especially the big energy corporations.

There is the $20 billion—let me repeat, the $20 billion ANWR oil giveaway to a few oil companies that my colleague from Colorado, Senator WIRTH, has written and spoken about so eloquently.

There is the writeoff of $11 billion—let me repeat this, $11 billion in debt owed by the nuclear industry to the U.S. Government for past enrichment services.

Then, to compound that mistake, the bill mandates the construction of several new synthetic fuel plants and a so-called advanced nuclear reactor, costing the taxpayers perhaps several billion dollars.

Then there is the PUHCA reform, which is designed to open the way for lots of big corporations to get into the wholesale electric generating business, whether we need the electricity or not. The whole point of this is to encourage the construction of hundreds of new powerplants and this can only be done if the profitability of this kind of investment goes up—and that is what the so-called PUHCA reform is all about. It will not lead to cheaper electricity or more competition in electricity pricing, but just the opposite. I think it amounts to something similar to S&L deregulation, and I think it is dangerously anticonsumer.

That is why consumer groups as well as environmental groups oppose this bill. That is why the National Taxpayers Union is against this bill. That is why many of your smaller electric utilities are against it. Nearly every public interest group I know is against this bill because it is not a public interest bill—it is a special interest bill—of the special interests, by the special interests, and for the special interests.

Mr. President, S. 1220 is a bankrupt energy policy.

This bill promotes high cost, high pollution, highly centralized energy sources that the public doesn't want—is that the direction energy policy should take? Hundreds and hundreds of new coal and nuclear powerplants, with their attendant nuclear wastes and air and water pollution—is that your vision of the future? That is S. 1220's blueprint for our energy future.

No, this is not just a bankrupt policy. This is much worse. This is an energy policy which will bankrupt America. It is a policy which will undermine the competitiveness of America's industry, by pursuing obsolete high-cost energy sources.

Mr. President, recently I met with Amory Lovins, one of the world's leading experts on energy efficiency. He pointed out to me that various studies have already identified 42 Arctic refuges that could be drilled without endangering a single inch of wilderness land, and which could be produced for far less than we will pay for oil from Alaska. These ANWR's are in our homes, in our factories, and in our automobiles—they are developed by improving our energy efficiency.

Even the report which the Office of Technology Assessment released yesterday on U.S. oil vulnerability comes to the same conclusion. According to OTA: "* * * studies over the past decade have consistently shown that energy efficiency is an essential cornerstone to a comprehensive energy policy framework." If we take the path toward solving our energy security problems, "Energy efficiency improvements would dominate the first decade, securing time to allow alternative transportation fuels and alternative, nonfossil sources for electric power generation to develop.* * *"

This is not the path chosen by the NES, or S. 1220. So what should we do?

Since I was a child, I have heard the admonishment many times: "Don't waste good thread on rotten cloth." There have been very few occasions when I have found it more fitting than now. Trying to fix this bill and make it a program which promotes energy efficiency and renewable energy sources, on the floor of the Senate, would be a folly. S. 1220 is a blueprint for an entirely different design. It is fundamentally flawed in its approach and in its content.

I recognize that after a decade of neglect by the White House, there will be an attempt on the part of the administration to put the blame on Congress for failing to produce an energy policy if we do not take action on this legislation. I can only respond by saying that the only thing worse than no energy policy is a bad energy policy, and S. 1220 is unquestionably bad energy policy.

In conclusion I just want to share with my colleagues a few selected comments from the people of Minnesota.

Sister Gabriel Herbers writes from the home of the Good Shepard in St. Paul, MN:

> I am asking again that you work to make the development of a comprehensive national energy strategy emphasizing conservation and efficiency an immediate priority. Also, Senator Wellstone, would you please tell the U.S. Department of the Interior and other related departments to cease all oil and gas leasing plans in Alaska's wilderness and coastlines. This is a burning issue and needs a total commitment—if we are to save any untouched areas in Alaska from demolition. Thank you for your support and God's blessing be with you.

Finally, a letter I received from Adam Spindell and Kathie Cox of West St. Paul, MN. They write:

> Please vote a very loud "no!" on S. 1220, the "Energy Security Act of 1991."
>
> We need a real energy policy. We will eventually run out of oil. We need an energy policy that relies on conservation, alternative fuels and renewable energy sources. We need an energy policy for the long term. We need to be world leaders in developing alternative sources of energy.
>
> How can the Senate reject a bill requiring higher gasoline mileage standards for automobiles and approve a bill permitting the destruction of the Arctic Refuge for oil exploration in the same year? Is this a legislature that is looking out for America's future?
>
> Are the interests of the oil industry so powerful that the Senate will sacrifice an eternity of wilderness so a few very rich men can make a few more dollars?
>
> Please vote "no!," filibuster, use your considerable influence and do whatever you need to in order to defeat S. 1220 the "Energy Security Act of 1991." Encourage your fellow Senators to do the same. Raise a stink.

These are my constituents. To continue:

> Alert the media. Stand up for the environment and the future. The only security this bill affords is the security of continuing a disastrous energy policy. Do your best to let the rest of the nation know this is where we draw the line on letting the oil companies decide what's best for America's future energy needs. Thank you.

I want to say thank you to Sister Gabriel Herbers, Adam Spindell, Kathie Cox, and the many other Minnesotans who have written me about these issues. These are the people whom I was

elected to represent in the Senate. And I feel honored to be here on the floor to express their views. While I can take to this floor and express my views on S. 1220, somehow, their words still cut closer to the truth.

Mr. President, I wish to say to my colleagues that today we have the unique opportunity to demonstrate that this is still a government of the people, by the people and for the people by rejecting an energy bill of the special, well-financed, powerful oil interests.

NEW YORK TIMES EDITORIAL ON ROBERT GATES

Mr. BRADLEY. Mr. President, I recently read an excellent editorial in the Friday, October 18, 1991, edition of the New York Times on the nomination of Robert Gates as Director of Central Intelligence. It raises important questions that my colleagues and I should consider as the Senate takes up Mr. Gates' nomination next week.

I ask unanimous consent that a copy of this editorial be inserted in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD as follows:

[From the New York Times, Oct. 18, 1991]

THE ONCE AND FUTURE C.I.A.

These have not been stellar years for the Central Intelligence Agency. Even with the distinguished outsider Judge William Webster in charge, the once-proud agency has, at least to public perception, flunked. Who there anticipated the fall of the Berlin wall, the aggression of Saddam Hussein, the implosion of the Soviet Union?

Nevertheless, President Bush contends he needs an experienced insider and has nominated Robert Gates to be Director of Central Intelligence, a choice the Senate Intelligence Committee votes on today. There are strong reasons to vote no.

Mr. Gates has done his best to dispel the doubts that forced him to withdraw when he was first nominated in 1987. He has seemed contrite and open-minded and cites his broad experience and future vision. But senators would do well to consider at least three criteria.

Whether his past performance shows him to warrant their trust . . . whether he has earned the confidence of agency employees . . . and above all, whether he, an insider, is the right person to lead the agency into uncertain times. On each count, Mr. Gates falls short.

David Boren, the committee chairman, commends Mr. Gates for forthrightness. Yet he overlooks occasions when Mr. Gates helped skew intelligence assessments and was demonstrably blind to illegality. The illegality concerns the Iran-contra scandal. Mr. Gates contends he was "out of the loop" on decisions about what to tell Congress. And he defends his professed ignorance on grounds of deniability—that he was shielding the C.I.A. from involvement. These contentions defy belief.

The testimony of others puts Mr. Gates, on at least two occasions, very much in the loop. He supervised preparation of Director William Casey's deceitful testimony to Congress about the scandal. And one C.I.A. analyst, Charles Allen, says he informed Mr. Gates, before it came to light, of three unforgettable details: Oliver North's involvement, the markup of prices of arms sold surreptitiously to Iran, and diversion of the proceeds into a fund for covert operations. In a telling lapse of his reputedly formidable memory, Mr. Gates could not recall the details when Congress asked two months later.

The second criterion concerns intelligence estimates. Incorrect forecasting should not be disqualifying; estimates can be wrong for the right reasons of political expediency, that's "cooking the books."

The hearings have documented at least three cases of such slanting: a May 1985 estimate on Iran, estimates of Soviet influence in the third world, and assessments of Soviet complicity in the assassination attempt on Pope John Paul II. Mr. Gates has responded to their testimony but not refuted it. He evidently went to great lengths to manipulate the process, because highly reticent career officials testified against him in public. That electrifying development demonstrates how little confidence Mr. Gates enjoys in the agency.

It can be argued that his experience makes him well suited to lead the C.I.A. into the future. As a former Deputy Director and deputy national security adviser, he knows how intelligence assessments are put together and what policy makers need. And he knows the U.S. will not keep spending $30 billion a year on intelligence.

But it is more reasonable to think the agency would be better off with a director unbound by William Casey's dark legacy—the conviction that the agency knows best, a barely concealed contempt for Congress and a belief that anything goes including evading the law. Reshaping the agency wisely depends on casting off the legacy.

Thomas Polgar, a C.I.A. veteran, urged the committee to consider the message that confirmation would send. Would officials wonder whether it was wise for outspoken witnesses to risk their careers by testifying? Would they say to themselves, "Serve faithfully the boss of the moment; never mind integrity? Feel free to mislead the Senate—senators forget easily?

By voting no, senators will vote to remember.

NATIONAL YEAR OF RECONCILIATION

Mr. PRESSLER. Mr. President, with great pride I join in cosponsoring Senate Joint Resolution 222, a resolution which designates 1991 as a "National Year of Reconciliation" between Indians and non-Indians. For too long, relationships between Indians and non-Indians in this country have been based on misconceptions and distrust. It is time to change these attitudes, and a National Year of Reconciliation would be a big step in the right direction.

The movie "Dances With Wolves," which was filmed in my State of South Dakota, has generated great interest in Native American life in the mid-19th century. Events in the latter half of that century dramatically changed the Indian way of life. Reservations were created, buffalo herds were diminished and lives were lost. It was a time of historic confrontation between two clashing cultures which sowed the seeds of present day political disagreements.

Mr. President, last year the governor of South Dakota, George S. Mickelson, proclaimed 1990 as a "Year of Reconciliation" between Indians and non-Indians in South Dakota. In recognition of the success of the "Year of Reconciliation," Governor Mickelson earlier this year proclaimed the next 100 years as a "Century of Reconciliation." These proclamations have produced positive results in our state in the form of increased dialog and a greater willingness of the two cultures to work together toward developing a stronger long-term relationship.

In recognition of the success of South Dakota's Year of Reconciliation, other members of the South Dakota delegation and I have been working with the Indian tribes of South Dakota, the South Dakota Governor's Office, and other interested parties to give this great idea of reconciliation the national attention and exposure it so well deserves.

By introducing this resolution, we do not expect to sweep away the misunderstandings and distrust shaped by centuries of conflict and misunderstandings between Indians and non-Indians. We cannot change that history. But we cannot continue to relive the mistakes of our forefathers. Efforts to reconcile Indian and non-Indian peoples deserve to be recognized by this body. I urge my colleagues' support of this resolution.

TECHNICAL CORRECTIONS TO H.R. 2608 AND REPORT 102-233

Mr. HOLLINGS. Mr. President, I would like to thank Chairman BYRD and Senator NICKLES for including three technical corrections to H.R. 2608, the Fiscal Year 1992 Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act as part of the conference agreement to H.R. 2686, the Interior and Related Agencies Appropriations Act.

The first correction notes that $4 million of the $76 million provided for Justice Assistance is to be derived from funds previously appropriated. This was agreed to by the conferees but inadvertently left out of the final agreement.

The second correction clarifies that the conferees did not intend to place an obligation limitation on the Federal Communications Commission. This change should have been made when the conferees rejected the administration's FCC user fee proposal.

The third correction clarifies the intent of the conferees concerning the awarding of a grant to the National Resource and Training Center under the Legal Services Corporation.

Mr. President, I also would like to point out two errors in the Joint Ex-

planatory Statement of the Committee of Conference to H.R. 2608, the Fiscal Year 1992 Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act (Report 102-233).

In the table on page 45 under the National Oceanic and Atmospheric Administration Systems Acquisition "AWIPS/NOAAPORT" should have read $19,778,000 instead of $25,778,000. The "NMC Supercomputer Upgrade" funding line should have read $15 million instead of $9 million. The statement inadvertently reflected the cost of procuring a new supercomputer through a lease purchase agreement, but did not include the cost of operating and maintaining a second NMC supercomputer. The $15 million will allow the lease purchase to proceed, provide for necessary maintenance, and obviate the requirement for a future reprogramming.

In the table on page 63 under the Economic Development Administration the total amount available for EDA Planning Assistance should have read $24,953,000 instead of $25,276,000. District planning assistance will be allocated $17,707,000 instead of $17,708,000 and urban planning assistance will be allocated $2,636,000 instead of $2,958,000.

PLAYGROUND SAFETY

Mr. HARKIN. Mr. President, as my colleagues know I have long advocated the value of investing in our human infrastructure, especially as it relates to prevention. As chairman of the Labor, HHS, and Education Subcommittee, I have a particular interest in any efforts to safeguard the well-being of this Nation's greatest resource—our children.

As a society, we all bear some responsibility for ensuring that our children are allowed to grow and develop in the safest possible environment. Yet according to the U.S. Consumer Product Safety Commission, last year almost a quarter of a million children under age 15 were treated in hospital emergency rooms for injuries sustained on our country's playgrounds. Injuries that occurred on swings or other playground equipment.

Mr. President, I think we all recognize the physical and social benefits that playgrounds have to offer our children. But it is very troubling to learn that playgrounds can also pose a serious threat to children's safety.

Mr. President, according to the American Academy of Orthopedic Surgeons some of the injuries that occur on the playground setting can be prevented by paying greater attention to playground design and maintenance, as well by closer adult supervision.

Recognizing that an ounce of prevention can substantially reduce the number of injuries to children, the American Academy of Orthopedic Surgeons has launched a national public education program—called Play It Safe—to increase public awareness of the problem and to call attention to the guidelines of the U.S. Consumer Product Safety Commission.

While orthopedic surgeons treat a variety of injuries to children and adults, it is important to note that they are also interested in prevention of injuries. I wish to commend the academy for its efforts in this important area. I also want to urge my colleagues to obtain the brochure "Play It Safe: A Guide to Playground Safety," developed by the orthopedic surgeons and share it with your constituents.

MEMBERSHIP IN CLUBS THAT ENGAGE IN DISCRIMINATION

Mr. KENNEDY. Mr. President, the following resolution was adopted by the Labor Committee in executive session on October 30, 1991.

I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

COMMITTEE RESOLUTION

Resolved by the Committee on Labor and Human Resources, That it is the sense of the Committee on Labor and Human Resources of the Senate that—

(1) clubs where business is conducted, that by policy or practice intentionally discriminate on the basis of race, color, religion, sex, disability, or national origin, operate to exclude persons, including women and minorities, from business and professional opportunities;

(2) in recent years, awareness has grown that such discrimination is invidious and that membership in such discriminatory clubs may be viewed as a tacit endorsement of the discriminatory practices;

(3) membership in such discriminatory clubs is not compatible with the responsibility required of persons appearing before this Committee seeking confirmation to positions with official duties that may require the interpretation, implementation, or administration of Federal law and the Constitution;

(4) it is inappropriate, for persons who may be nominated in the future to serve in such positions of responsibility, to belong to discriminatory clubs, unless the persons are actively engaged in bona fide efforts to eliminate the discriminatory practices;

(5) membership in discriminatory clubs is an important factor that Senators should consider in evaluating such persons, in conjunction with other factors that may reflect upon the fitness and ability of the nominees; and

(6) so as to promote a consistent policy on this issue in the legislative branch as well, any Senator belonging to such a club should resign from membership in the club in light of this resolution.

SEC. 2. CLUB WHERE BUSINESS IS CONDUCTED.

(a) CHARACTERISTICS.—Except as provided in subsection (b), for purposes of this resolution—

(1) except as provided in paragraph (2), the term "club where business is conducted" means a club—

(A) to which club members bring business clients or professional associates for conferences, meetings, meals, or use of the facilities;

(B) for which club members or the employers of the members deduct due, fees, or payments as business expenses on tax returns;

(C) at which contacts valuable for business purposes, employment and professional advancement are formed; or

(D) that receives payments from nonmembers for meals or services provided by the club; and

(2) a country club, or a club where meals are served, shall be presumed to be a club where business is conducted.

(b) ORGANIZATION.—As used in this resolution, the term "club where business is conducted" shall not include a fraternal, sororal, religious, or ethnic heritage organization.

SEC. 3. TRANSMITTAL.

The Chairman of the Committee on Labor and Human Resources is requested to transmit a copy of this resolution to the President and to all Members of the Senate, for such use as the President and Members determine to be appropriate in considering future nominations.

SEC. 4. EFFECTIVE DATE.

This resolution shall take effect February 1, 1992.

FREE ELECTIONS AND DEMOCRACY IN GUYANA

Mr. KENNEDY. Mr. President, in recent years, we have witnessed the dramatic advance of democracy in Latin America. Last year's elections in Nicaragua demonstrated the irresistible desire for democracy by the people of that country. Last year as well, Patricio Aylwin was inaugurated as President of Chile following that country's first election since 1973. In 1989, the election of Gen. Andres Rodriguez ended Paraguay's 35-year history of dictatorship.

But while democracy is flourishing for many nations in the hemisphere, others continue the struggle for freedom and justice. While recent democratic advances have captured our attention and newspaper headlines, little attention has been given to the ongoing struggle for democracy in Guyana.

A country of less than 800,000 people, geographically located on the northern coast of South America, Guyana is the region's poorest country. As a 1989 World Bank report noted, "Since the mid-1970's, the economy has deteriorated, infrastructure has collapsed, social conditions have worsened, and emigration has accelerated." There are frequent electricity outages, water sources are contaminated, the infant mortality rate has risen dramatically, nutritional needs are not met, homelessness is a growing problem, health facilities are inadequate, medicines to combat disease are often unavailable, and the emigration of doctors, teachers and other educated and skilled Guyanese has resulted in a deteriorating health and educational system.

Poverty has not always been a way of life in Guyana. During the 1960's and early 1970's, Guyana was one of the

most economically and socially advanced countries in the region. But in recent years, the social and economic downward spiral has paralleled the decline of democracy.

In 1964, Forbes Burnham became the President of Guyana when his Peoples' National Congress won parliamentary elections—the last free and fair election held in Guyana. Since then, the PNC has remained in power by massively rigged elections. When President Burnham died in 1985, Vice President Desmond Hoyte assumed the Presidency and continued the tradition.

To some extent, the government of President Hoyte has made economic progress compared with the previous regime. His government opened the economy, reached agreement with the IMF and achieved a 4-percent economic growth rate this year. But economic reform cannot succeed in a vacuum. Political reform must accompany it, if Guyana is to succeed and flourish. If Guyana is to get its economy back on track, it must also get its democracy back on track.

In December 1989, I urged President Hoyte to take several steps to assure that the 1990 election would be free and fair, including the establishment of an independent electoral commission, the preparation of an accurate voter registration list, guarantees against ballot tampering and against fraudulent counting of ballots, and the participation of independent international observers. The National Democratic Institute, President Carter's Council of Freely Elected Heads of Government and America's Watch were active in calling for similar reforms.

Developments over the last 2 years have made President Hoyte's intention's unclear at best. He has made some progress, but problems remain. He permitted visits to Guyana by the International Foundation for Electoral Systems and the National Democratic Institute. He also invited a Commonwealth team and President Carter's group to observe the elections. He has also agreed to the counting of ballots at polling sites. A new Chairman, who enjoyed the support of Guyana's opposition parties, was appointed to head the Elections Commission, and President Hoyte promised that a new voter list would be prepared.

But over the past year, the process has slowed, and many believe President Hoyte has no intention of holding a free and fair election. The 1990 election was postponed because President Hoyte claimed it would take several months to complete a new voter registration list. Although they viewed it as a stalling tactic, opposition forces and independent observers went along.

A new list has now been compiled, but an eight-member delegation representing President Carter's Council of Freely Elected Heads of Government, which has just returned from Guyana, has called the list seriously flawed. They believe it will take 2 to 3 months to clean it up. The independent and nonpartisan Electoral Assistance Bureau has also determined that the list is riddled with errors.

In an effort to assure a fair election, President Carter's group, opposition parties, and other independent observers have recommended that the dissolved Parliament be recalled and that a constitutional amendment be adopted to extend the date for elections from the end of December to the end of March. But the Elections Commission, which many believe is still under the control of President Hoyte, has said it will not support an extension and that it can clean up the voter list in 2 weeks—a promise which President Carter's group says is impossible to fulfill.

The list is clearly flawed, and few believe that an election based on it can be viewed as fair. Unless significant improvements are made, President Hoyte will jeopardize what he has accomplished to date. I urge him to heed the recommendations of independent observers and delay elections until the voter list is revised above reproach. In doing so, his government would be demonstrating its genuine commitment to free elections. At a time when so many countries in our hemisphere have succeeded in restoring democracy, the people of Guyana deserve no less.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,420th day that Terry Anderson has been held captive in Lebanon.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

Mr. BOREN. Mr. President, I ask unanimous consent that I might be allowed to proceed for not to exceed 2 minutes as if in morning business with the time to be equally charged to both sides.

The PRESIDING OFFICER. Is there objection? The Senator from Oklahoma is recognized for 2 minutes.

Mr. BOREN. Mr. President, I thank the Chair, and I thank the distinguished floor manager of the bill for allowing me this brief time.

CONGRESSIONAL REFORM

Mr. BOREN. Mr. President, as I indicated yesterday at greater length, I am continuing the policy of speaking at least twice each week on the floor of the Senate until we begin to do something fundamental to reform this institution and to make Congress serve the people more effectively and more efficiently.

This is not a new cause of mine. It dates back several years. Nine years ago, Senator Goldwater and I began our efforts to reform the way that campaigns are financed. In July, I joined with Senator DOMENICI, and on the House side with Congressman HAMILTON and Congressman GRADISON, in a bipartisan effort to call for a major overhaul of this institution.

Congress is in trouble as an institution. All of us realize it. We need another effort, much like that of the Monroney-LaFollette Commission in 1947, to prepare Congress to face the challenges of the next century which are now before us.

Mr. President, as I have indicated, we have submitted Senate Concurrent Resolution 57, which would begin the process of this study for a sweeping overhaul of Congress. I am pleased to announce that Senator NICKLES has now joined as a cosponsor. This brings to 16 the number of Senators that have now cosponsored this resolution calling for the establishment of this Commission, which would be staffed largely by nonpaid volunteers to help us get the job done.

The warning signs are all around. The Former Stockman, a magazine which goes to the agriculture community in 30 States, to the central part of the United States, recently conducted a poll as to how their readers looked at Congress. "Readers are Forthright," it says in the headline, "in Their Criticisms of Congress."

In a poll, they asked several questions about how they viewed Congress. One question was: Do you as a constituent feel that you receive as much attention from Federal legislators as you did when staffs in Washington were not nearly so large, when we had only 2,000 employees back in 1950, as compared to the 12,000 that we now have at this time?

Here is how they answered: Yes, I think I get as much attention as I used to before you built this large congressional bureaucracy, 13 percent; no, 87 percent.

Do you approve of the $159 million being poured into campaigns by political action committees and special interest groups? Yes, 1½ percent; no, 98½ percent.

Mr. President, how long will we wait before we take action to deal with the major problems facing this institution?

I thank the Chair, and I thank my colleagues for allowing me this time.

NATIONAL ENERGY POLICY ACT

MOTION TO PROCEED

The PRESIDING OFFICER. The Senate will now resume consideration of the motion to proceed to S. 1220, the energy bill. The time between now and 1 p.m. this day is to be equally divided

and controlled by the senior Senator from Louisiana [Mr. JOHNSTON] and the senior Senator from Montana [Mr. BAUCUS].

Mr. JOHNSTON. Mr. President, I yield myself 20 minutes.

Mr. President, regarding the speech against S. 1220 earlier today, am I to understand that that was not taken out of the time of the opponents of S. 1220?

The PRESIDING OFFICER. That is true.

Mr. JOHNSTON. I wonder if, in the spirit of fairness, the speech of Senator WELLSTONE could be charged against the time of the opponents?

The PRESIDING OFFICER. Under the procedure now, the time between now and 1 o'clock is equally divided. The previous time was under morning business.

Mr. BAUCUS. Mr. President, might I inquire of the Senator from Louisiana, perhaps an alternative suggestion would be to seek consent to extend the time for debate on the bill for another 10 minutes equally divided.

Mr. JOHNSTON. Mr. President, I think Senator BYRD is ready to go. I had assumed that the unanimous consent which was agreed to was to be equally divided. If that is not suitable, it is not suitable.

Mr. President, at long last, we are now ready to consider national energy policy. There is an old Chinese proverb that says that he who does not change direction is liable to end up where he is headed.

Mr. President, we start with a graphic picture of our national energy policy today, dependent upon the Middle East, having to send 300,000 American men and women to the Middle East to risk their lives, some of whom did not come back, on account of oil.

Mr. President, I hope this picture will sear itself into the minds of Americans. I know it is already seared into the minds of Americans, but I hope they will recall what this issue is all about. It is about this country being dependent upon the Middle East, which is about as stable as this oil well, which so far as I know is still burning.

Mr. President, if we are liable to end up where we are headed unless we change policies, it is worthwhile to see what the trends are. I think most everybody in America is familiar with these trends.

The first chart is American petroleum consumption, which is headed straight up. The second chart is American crude oil production, which is headed straight down. Can any American doubt the direction of American energy policy? Can any American doubt if this is not changed, where it ends up? It ends up, as a matter of fact, Mr. President, with the fact that we are dependent now on imports for about 50 percent of our oil. Sixty-four percent of America's balance of payments deficit is now due to oil imports, 64 percent of America's balance of payments deficit is due to oil imports.

Former Secretary of Energy James Schlesinger says that by the year 1995, we will be dependent for two-thirds of our oil on imports. The Department of Energy says it will be some years later. The Office of Technology Assessment said just yesterday that it will be three-fourths sometime within the next two decades.

So, Mr. President, keep in mind these charts: Production down, consumption up.

Now, where that leads us, Mr. President, is from 1991, right here, this is the projected oil import bill. As I mentioned, that oil import bill, which is now at $65 billion in 1991, is projected to go in this direction by the year 2010. This, according to the Department of Energy, Mr. President. Now our balance of payments, I repeat, is 64 percent, caused by imported oil.

Mr. President, I mentioned a moment ago where the trends were in terms of domestic production.

The rotary rigs in operation is, to those of us who are in oil-producing States, the leading indicator of where we are going in oil. You can see where we are right now. This is as of May 1991. We have come down from 4,000 rigs in operation to less than 1,000. That tells you what the future of American oil production is.

On account of that, Mr. President, we have put together a comprehensive national energy strategy which is designed to change the direction in which America is headed. It is designed to be comprehensive, balanced both politically and policywise, because, Mr. President, in some 19 years in the Senate on the Senate Energy Committee, we have found that doing any one thing in energy will not work; You must attack the problem comprehensively.

Accordingly, this bill, S. 1220, with 16 titles, deals with everything from CAFE standards for automobiles—that is the fuel economy of automobiles—to alternative fuels, to renewable energy, energy efficiency, the Arctic National Wildlife Refuge drilling, to advanced nuclear reactor commercialization, to nuclear reactor licensing, to uranium enrichment, to natural gas, to the Outer Continental Shelf, to research and development, demonstration and commercialization activities, and a whole range of technologies from clean coal to solar energy, to coal and electricity, to Public Utility Holding Company Act reform, to the strategic petroleum reserve.

Mr. President, we just heard an amazing speech that says that this bill is nothing but a special interest bill; that the provisions of it that relate to renewable energy, energy efficiency, alternative fuels, do not amount to anything. I submit that these provisions are the most far-reaching provisions on the so-called environmental path—on energy efficiency, on renewables, on alternative fuels—that have ever been presented to Congress. I submit they are not only far-reaching, but they are controversial.

For example, Mr. President, our provisions on energy efficiency have already been opposed by the National Association of Homebuilders because we have strict and far-reaching provisions with respect to standards on buildings. But our friend from Minnesota says energy efficiency counts for nothing, conservation counts for nothing, alternative fuels count for nothing.

Mr. President, that is what we have done for 19 years, nothing, because the opponents always come in and say it is not enough. The opponents always come in and say the only solution is to do something not now being considered, something in terms of taxes or other provisions. This is a comprehensive and balanced policy, and I hope that the Senate will consider it.

We were just told by my friend from Minnesota that we should posit this whole policy on conservation and on renewables. Mr. President, we do a lot in renewables in this bill, and we will discuss that, I hope, fully, and I hope my colleagues will listen to it. But if you look at renewable energy today, you will see why it is we cannot posit our whole policy on renewable energy.

This shows the cumulative Federal support, the number of dollars we have spent on renewable energy from 1978 to 1990. We have spent, counting tax credits, over $8.233 billion on renewable energy; On solar, we have spent $2.151 billion. This is the Department of Energy sources. We have related over here the 1990 energy production in thousands of barrels a day. In other words, what did we get for the $2.151 billion we have invested in solar energy? We got the equivalent of 24,000 barrels a day. That includes 20,000 barrels a day off-grid production. That means, for example, heaters for swimming pools, which do not go into the grid for electricity, are off grid. We count most of that $2.151 billion that is off grid and never goes for the benefit of most people. It goes individually for homes as hot water heaters or swimming pool heaters. In any event, Mr. President, cumulatively in solar energy we have 24,000 barrels a day.

With wind energy we have spent $421 million. That does not count the tax credits given by States, those wind farms in California. That has given us the equivalent of 30,000 barrels a day.

Ethanol, we have spent $3.165 billion. That includes the Federal excise tax exemption of $3.10 billion. That got us the equivalent of 40,000 barrels a day.

Other biofuels, which you can see are the most extensive, we have spent $327 million. That is the equivalent of 200,000 barrels a day. Mr. President, the other biofuels here, the biggest source

of renewable energy, happens to be wood chips and paper mills, a very important source of energy. But it is not a great breakthrough.

Geothermal, with $852 million, has given us the equivalent of 100,000 barrels a day.

And ocean systems, where we have spent $217 million, we get zero.

Cumulatively we have spent over $8 billion, and we get the equivalent of 394,000 barrels a day.

The percent of our energy requirement is 1 percent by renewables, or if you wanted to put that in terms of the number of days of a year that renewable energy supplies this country, it is 3.8 days that renewable energy supplies this country.

Mr. President, I want to be understood well. I am a strong proponent of renewable energy. I am a coauthor of Senator DASCHLE's solar energy tax credit, which would be $50 million a year additionally. We have a huge number of initiatives in our bill relating to renewable energy.

Mr. WELLSTONE. Will the Senator yield?

Mr. JOHNSTON. But the point is, Mr. President, you cannot put your whole energy policy on this, because we spent $8.2 billion for it and we are getting less than 1 percent of our energy from nonhydro renewables.

Mr. WELLSTONE. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. WELLSTONE. Is it not true that two-thirds of our energy consumption is in transportation and industry?

Mr. JOHNSTON. Transportation and energy?

Mr. WELLSTONE. Transportation and industry. And is it not true that almost nothing in this piece of legislation calls for required standards? That these standards are voluntary?

The Senator said that there is a great deal for conservation. My question is, given my understanding that two-thirds of energy consumption in this country is centered in transportation and industry, are the standards for these sectors voluntary?

Mr. JOHNSTON. I do not understand. Are you saying "in industry," or transportation "and industry"?

Mr. WELLSTONE. Transportation and industry—"and."

Is it not true—this is why I ask the Senator this question—that there is almost nothing required by way of efficiency standards? That these standards are, in fact, voluntary?

Mr. JOHNSTON. No; that is not correct. There is a whole range of requirements in this bill. If the Senator would listen and study and read the bill, he would understand that.

There is a tremendous amount that is required in this bill, and I will not go into that at this point. I hope that the Senator will let me do so when the time comes and not filibuster on that part of the bill.

Mr. WELLSTONE. I would be pleased to have this discussion with the Senator later on. Since I serve on the distinguished chairman's committee, I certainly have looked at the legislation very carefully, and I do not see the language really saying that, and perhaps this is something we will debate later on.

Mr. JOHNSTON. I certainly hope so, because there are some 30 different initiatives in this bill with respect to energy efficiency. There are also very far-reaching energy conservation provisions. I want to strengthen the CAFE provisions. There are also very strong alternative fuel provisions in this bill.

Mr. President, again, the point of this is just to show that, yes, we need to do these things, but if my colleagues think we are going to build an energy policy only on that, we are likely to end up where we are now, which is only a very small part of our energy provided for by this means.

If I may point out, some of the provisions relating to energy efficiency involve least-cost planning for public utilities so that they must consider that which is the least cost, including conservation. We establish a production tax credit for renewable energy supplies—excuse me, that is what is proposed.

Mr. President, the situation we are in on this bill is this: that we have a comprehensive bill to be considered. We were told by the distinguished Senator from Colorado this morning that this is a great bill, save for one provision; that is, the Arctic National Wildlife Refuge. We are told by the Senator from Minnesota that there is almost nothing redeeming about this bill; that it comes out of the corporate board rooms and is only an attempt to enrich corporate America on the backs of average citizens of this country.

Mr. President, I submit that this bill, which was reported by the Energy Committee by a vote of 17 to 3—only 3 votes against it, Democrats for it by a vote of 8 to 3—is not a special interest bill. To the contrary, it is a balanced bill.

Mr. President, I know full well the emotion and the energy that goes into the question of drilling in the Arctic National Wildlife Refuge. But this Senate and this country and this Congress needs to consider national energy policy and vote on it. I hope that we can approach this energy bill with a spirit of examining every provision on its merits without obfuscation and without disingenuous arguments on both of our sides. I hope we can decide what it is we can agree on. I hope that will include drilling in the Arctic National Wildlife Refuge, but that is only one part of this bill.

I suggest to my colleagues, Mr. President, that we approach the bill from the standpoint of trying first to decide upon what we can agree and try not to get bogged down in the debate on the Arctic National Wildlife Refuge to the exclusion of all of the rest of the bill; rather, that we examine the bill title by title and see what we can agree upon because, Mr. President, I think it is well within the power of the opponents of this bill to consume all of the time between now and Thanksgiving in a whole series of dilatory amendments. I hear rumor there are some 500 amendments circulating out there. I have been here long enough to know that you can use up the time between now and Thanksgiving with these dilatory tactics if you want to.

So I say to the opponents of this bill, if they want to defeat national energy strategy, it is probably within their power to do so. I think the country would be in much worse condition if that is done. I think it is a heavy responsibility to take on the defeat of any part of national energy strategy.

Mr. President, I hope my friends from the opposition will look upon it as opposition to parts of this bill. I hope the spirit that the Senator from Colorado began this morning's business with, which was saying he opposes drilling in the Arctic National Wildlife Refuge but that the rest of the bill is good, I hope we can approach it with that spirit and look at these provisions.

Is it true that our provisions on energy efficiency do nothing at all to improve energy efficiency? I think the Senator from Colorado, Senator WIRTH, who wrote those provisions, would take exception to that.

Is it true that our energy conservation provisions do nothing at all, that nothing is required? I think the Senator from Colorado, who wrote those provisions, would take exception to that.

The PRESIDING OFFICER. The 20 minutes the Senator yielded himself has expired.

Mr. JOHNSTON. I yield an additional 2 minutes.

Mr. President, I think the provisions on alternative fuels which require private fleets to begin phasing in alternative fuel vehicles by 1998 and public vehicles by 1995—requiring alternative fuel vehicles is a very far-reaching and very important provision. I think the Senator from Colorado and others who oppose drilling in the Arctic National Wildlife Refuge would agree that it is far-reaching and very good.

So, Mr. President, what we need to do, I believe, on this bill is start wading through those provisions, put off the fight on ANWR for a while, and let us see if we can agree to the rest and not try to do what I call terrorist activity on the bill; that is, to stop it, to try to clog up all the drains with amendment after amendment, but that we look at that part on which we can agree. I hope, Mr. President, that we can do that.

Mr. WIRTH. Will the Senator yield?

Mr. JOHNSTON. Yes; I will.

Mr. WIRTH. Mr. President, I appreciate the Senator yielding. I have enormous admiration for the job the distinguished Senator from Louisiana has done on this bill. I want to have a broad national energy policy and a strategy coming out of the Senate. I have said that on a number of occasions. The Senator is quite correct; I was deeply involved, with his support, in writing a number of the provisions.

As I have also said on a number of occasions, this comprehensive bill would have been on the floor months ago had it not had appended to it drilling in the Arctic National Wildlife Refuge. That is a huge controversy which many of us believe is wrongheaded, wrongminded, and not good energy policy for the future. It might have been acceptable policy 10 years ago or 20 years ago or 30 years ago. It is not today.

We have said over and over and over again, we would get to this bill quickly if the distinguished chairman of the committee would agree to split off the Arctic. Let us get on with doing this bill. We should all agree that a bill on corporate average fuel economy, a separate bill reported out of the Commerce Committee, ought to be acted upon. Those are the two highly controversial areas. Let us get to those separately, deal with those separately, and go on to a comprehensive bill. That is an offer which we have made over and over and over again.

I thank the distinguished chairman for yielding.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. I yield myself an additional 2 minutes.

Mr. President, the Senator is not making an offer that the rest of the group would support the 14 other titles of this bill. He is speaking only for himself.

Mr. WIRTH. If the chairman will yield, we have had any number of discussions with the distinguished chairman of the committee. Maybe we have all been talking past each other, but we have said in the clearest terms possible, if the Arctic is a separate bill, if CAFE is a separate bill, then let us go on with the overall energy bill, the other 14 titles. We can move into those other 14 titles and act on those just as we do on any other bill.

There are some Senators who have problems with the nuclear provisions. Let them do amendments. And if the distinguished chairman has a majority, fine. There are problems with other parts. Everybody is going to amend the bill. There are going to be all kinds of amendments to the bill. People have good ideas and bad ideas and we just progress on that.

The two hurdles, the two bookends that are causing the problem are the corporate average fuel economy standards—which I would like to see in the bill but would agree to deal with it separately because it is so controversial—and on the other side the Arctic National Wildlife Refuge, which the Senator from Louisiana would like to have in the bill. Why not compromise and leave that outside so we have the major part of the bill, the whole book shelf which is 14 titles long, and let us get on with that. That is the offer we have made.

The distinguished Senator from Montana has been the leader of our group on this. I would certainly like him on this as well.

I thank the distinguished Senator for yielding.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. Mr. President, 1 minute.

I would hope—and I know the leaders of the opposition are here—that we could examine those 14 titles first and see what we can agree upon. To do so, Senators surrender no rights. I am not asking Senators to agree to anything unanimous consentwise. I am not asking anyone to give up their right to filibuster. I am not asking anyone to surrender on the nuclear title, or the Public Utility Holding Company Act title, or even energy efficiency. There will be amendments proposed. But why not see what we can agree upon and then when we get to the end of that process, Senators have the right to filibuster, to offer 500 amendments, to do anything.

Mr. WIRTH. Will the Senator yield?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WIRTH. Just to explain, if I might—I will come back.

The PRESIDING OFFICER. Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask to use as much time as I consume and that the Chair advise me when I have used 10 minutes.

Mr. President, this morning the Senate begins its debate on energy policy. I, like most of my colleagues, support a strong energy policy that will protect Americans from oil price shocks and provide adequate environmental protection in the decades ahead. I want to underline that point. I know every Senator supports a strong energy policy as we attempt to endeavor to find some way that this country in fact enacts strong energy policy. We need such a policy. The Senate should work to adopt such a policy as soon as it possibly can.

However, the pending legislation, S. 1220, is a seriously flawed and inappropriate starting point for such an energy debate. S. 1220 embraces the false hope that America can produce enough oil to shield itself from the uncertainties of Middle East politics. S. 1220 turns its back on developing technologies that can increase our energy efficiency by creating no new markets for such technologies.

S. 1220 calls for drilling of oil in a pristine area of Alaska. It provides for no mandated improvement in the efficiency of our automobiles—none. It completely restructures the electric utility industry. It shuts out the public during the nuclear licensing process.

It allows many hydroelectric projects to evade the Endangered Species Act. And it provides insignificant, voluntary improvements in efficiency of appliances, lighting, and buildings. We could improve each of these provisions through debate on the Senate floor, and that is what many of us are urging.

But the better course for the Senate and for this country would be to start with a proposal that looks to the future and not to the past. That is the essential problem with this bill. We should be considering an energy policy that reduces, not increases, our dependence on oil. We should be able to declare that the legislation we are considering will provide significant reductions in the gases that contribute to global warming.

Mr. President, we can do better. I and others are prepared to spend the time necessary to address each of the dozens of significant problems presented in S. 1220.

I would prefer to spend my time, however, in supporting legislation that protects the future of this country, one that does not look to the past.

I come to this debate unwillingly. Clearly, the Energy Committee members, particularly its chairman, have devoted a lot of time to this legislation.

But wise and careful energy production—I underline the word production—coupled with careful energy use, should be our goal. S. 1220 is devoid of such a goal. I cannot, therefore, recommend that the Senate initiate a protracted debate on such a reversionary policy.

The energy policy put forth in this legislation is seriously flawed. It is policy that is heavily skewed toward increased energy production, at any cost to the environment and the consumer. It suffers from the tunnel vision of chasing cheap oil while shunning energy conservation and efficiency. It is a policy to deregulate virtually every major energy industry in this country.

The single-minded pursuit of oil for the past decade has made our families and businesses more vulnerable to oil price shocks.

It has reduced our ability to compete with Japan, Germany, and other nations in the world marketplace.

And it has contributed to global warming, air pollution, and other environmental problems.

This so-called comprehensive energy legislation has no broader vision than

merely continuing our present policy. It continues to stumble along in the wrong direction.

Some have said that this bill is flawed because it is not balanced with more conservation measures. I disagree. It is flawed because it has no vision of the future.

It fails to take us in a new direction, a direction that leads to increased energy efficiency and development of other energy sources, a direction that leads to greater economic stability, increased international competitiveness and a healthier environment.

The centerpiece of this bill is the panacea of drilling for oil in the Arctic Refuge's wilderness. It is, in reality, only a hope that we will be able to find 200 days' worth of oil—oil that the Office of Technology Assessment has said would provide a short-term and very small benefit to us 10 to 40 years from now.

This bill threatens to destroy a portion of this country's natural heritage with very little in return. The exploration for oil and gas that would follow leasing would change forever a magnificent and wild national treasure.

In exchange for the certainty of that harm, the Nation's major oil companies—not the independents but the majors—would have gained the right to roll the dice, or to flip a coin, on finding oil.

And look where this approach leaves us 10 years from now. We will have made little progress toward greater conservation and more efficient use of energy. We will have made little progress toward development of energy alternatives to oil. And we will have begun to drain the last of our oil to feed our wasteful energy habit.

Opening the wilderness areas of the Arctic Refuge is a quick fix that has more to do with helping big oil than it does with helping the public. The big oil companies reaped more than $40 billion in profits from Prudhoe Bay production between 1969 and 1987.

I reject a policy that, for 6 months of oil—maybe 7 months of oil—would sacrifice what the Interior Department called "the only conservation system unit that protects, in an undisturbed condition, a complete spectrum of the arctic ecosystems in North America."

The oilspill in Prince William Sound taught us that the promise of not having to choose between a wild, natural arctic ecosystem and extensive development is a promise that cannot be kept.

We do have to choose.

Remember that 90 percent of the 1,100-mile northern coastline of Alaska—offshore and onshore—has been devoted to energy exploration and possible development. Only the 110 miles of the Arctic Refuge's coastal plain remains off limits.

We do not have to develop the last and best 10 percent to have a sound energy policy for this Nation.

Our problem with imported oil is its price, not its availability. Most of the world's oil reserves lie in the Persian Gulf. It is instability in this region that produces large shocks in the price of oil.

The United States has only 4 percent of the world's oil reserves and much of what is left is inaccessible and expensive to develop. No matter how hard we try—no matter how much of our natural heritage we destroy—the United States cannot produce its way out of our current vulnerability to oil price increases. It cannot.

During the war with Iraq, Alaskan oil sold for the same price as oil that was imported from the Persian Gulf. Oil from the Arctic Refuge, if there is any, also would sell at the same price as Persian Gulf oil.

Between the last oil crisis and this one we burned most of the oil we had found on Alaska's North Slope. But that oil did nothing to insulate us from skyrocketing prices, and the answer is not one single find.

Our national energy strategy should not abandon domestic oil production, but it should be more focused toward the future.

This country's policy should provide economic incentives to put the oil rigs in Montana, Texas, Oklahoma, and elsewhere around the country back to work extracting known oil reserves.

It is called enhanced recovery. The President's national energy study showed that the amount of additional oil that we can get from enhanced recovery vastly exceeds four or five times the amount that may be found in a very pristine area of northern Alaska; or other strikes in addition, I might add.

We should encourage more thorough exploration and development of the tens of millions of acres already under lease in Alaska. Strikes in some of these areas already have proven to be far more promising than originally thought.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I yield myself another 8 minutes.

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

Mr. BAUCUS. But the way to protect ourselves from huge, overnight increases in the price of oil—to prepare ourselves now for the future—is to use oil more efficiently and to become less dependent upon it.

This fact is as true in our own lives as it is true for the Nation as a whole.

The less oil we need to run our businesses, drive our cars, and heat our homes, the less we have to spend out of each paycheck for oil price increases that we never will be able to control.

We can use energy more efficiently without compromising our quality of life. Americans need not live in colder homes during winter. We can take advantage of existing and developing technologies that provide us with the heating, appliances, and lighting that we seek but with less energy use.

Our appetite for oil also is costly to the global environment. Energy consumption is the single largest contributor to global warming.

The United States is the leading contributor of greenhouse gases that threaten the Earth's climate. With 5 percent of the world's population, the United States accounts for about 20 percent of the world's global warming emissions. U.S. carbon dioxide emissions originate almost exclusively from burning oil and other fossil fuels.

Yet, while most of the developed countries of the world are seeking to stabilize or reduce greenhouse gas emissions, particularly carbon dioxide, the United States has stood alone as unwilling to commit to fixed targets and dates for reductions.

The Office of Technology Assessment estimates that if no actions are taken, U.S. carbon dioxide emissions will likely rise 50 percent during the next 25 years.

S. 1220, far from producing significant reductions in greenhouse gas emissions, would increase our already heavy reliance on oil and would increase U.S. carbon dioxide emissions.

During the Reagan years, virtually every Federal energy conservation policy was dismantled.

We cannot continue to shun the quickest, cheapest, and most effective energy options in favor of ones that are the most costly to the Nation's economy and environment.

Rather we should weigh our energy options and pick the best buys first.

Energy efficiency is the cheapest and most immediate solution to increased oil prices that we have.

The Japanese, German, Swedish, and other foreign competitors already use half as much energy per capita as we do in the United States. No wonder they are such formidable competitors.

By increasing fuel efficiency by 1.5 miles per gallon per year over 7 years, we could save as much oil as Iraq and Kuwait would have produced.

Let me repeat that.

By increasing fuel efficiency by 1.5 miles per gallon per year over 7 years, we could save as much oil as Iraq and Kuwait would have produced. An increase in fuel economy standards to 40 miles per gallon could save as much as 8 to 9 billion barrels of oil by 2010.

If homes were fully insulated and used the most efficient furnaces and water heaters, the United States could save the equivalent of 16 billion barrels of oil by 2020.

If America's 1 billion light sockets were equipped with high efficiency bulbs, an additional 600 million barrels of oil would be saved.

A sound energy policy is one that plans for the future. It is one that pro-

tects our climate and environment and promotes wise energy choices. It is not one that requires drilling in the Arctic Wildlife Refuge.

Finally, Mr. President, as chairman of the Subcommittee on Environmental Protection, I have a very serious jurisdictional objection to the process that has brought us here today. I realize that no one outside the Senate may care about these concerns. But each of us within this institution should care greatly.

S. 1220 in effect amends almost every environmental statute under the jurisdiction of my subcommittee and it amends many other environmental laws under the jurisdiction of the full Environment and Public Works Committee.

But these jurisdictional concerns have been ignored so far in this process.

On February 5, the chairman and ranking Republican member of the Energy Committee wrote to our committee acknowledging that in order to have a balanced program, their comprehensive energy bill, of necessity, contains provisions that cut across jurisdictional lines.

Two weeks later, I and other members of the Environment and Public Works Committee wrote to the leadership of the Energy and Natural Resources Committee to request sequential referral of this legislation, so that we could consider it properly and fully.

To the best of my knowledge, there was never any response to that letter.

On June 24, I renewed our request with the Energy and Natural Resources Committee. Again, there has been no response.

We continue to believe that the most efficient and effective manner for the Senate to develop legislation on energy policy matters would be for S. 1220 to be referred to the Environment and Public Works Committee and other committees of jurisdiction.

Each committee in the Senate has developed an expertise in the subject matters within its jurisdiction. That is the strength of our system, and we should not allow it to be short circuited.

Our committee has expertise in the effects of various energy policy choices on air and water quality and on fisheries and wildlife.

The process we began yesterday, however, forces us to bring our concerns about the environmental effects of this bill to the Senate floor, with no opportunity for careful review.

S. 1220 runs roughshod over the jurisdiction of at least three committees. The Senate should not agree to consider a bill under these circumstances.

If we agree to this, then any committee can argue the need for comprehensive legislation. Any committee could and would use that rationale to report a bill that cuts across every other committee's jurisdiction.

That makes a mockery of the committee process and the Senate rules that none of us should tolerate.

The intrusions into the Environment Committee's jurisdiction are blatant and significant. This legislation amends the 1990 Clean Air Act amendments in several significant respects, including the provisions providing for phaseout of ozone depleting chemicals, requirements that apply to stationary sources modifying their operations, and the motor vehicle fleets requirements.

We do not believe that it is constructive to reopen the Clean Air Act so soon after its enactment. Reauthorization of the Clean Air Act was an extremely arduous and complex task that took 13 years to accomplish. Any effort to amend this act will lead to consideration of scores of other issues.

S. 1220 also amends or affects the application of the Solid Waste Disposal Act, the Clean Water Act, the Oil Pollution Act of 1990, the National Environmental Policy Act, the Endangered Species Act, and the National Wildlife Refuge Administration Act.

While this list is not exhaustive, it is indicative of the complex and controversial nature of this legislation.

I hope that before my colleagues agree to enter into extended debate on this legislation, they will carefully review all of its provisions and determine for themselves whether they are comfortable with opening such a Pandora's box tomorrow.

I urge my colleagues to vote with me tomorrow to reject S. 1220 as the basis for our energy policy. We should start with a vision of the future. Voting "no" on the motion to proceed will help us craft an energy policy that protects our children and grandchildren, not energy industry profits.

I know that some of my colleagues will feel uncomfortable voting "no" on the motion to proceed. Some will undoubtedly argue that the Senate should at least be able to talk about energy policy. I could not agree more. I want to talk about energy policy. I want to vote for constructive energy legislation.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BAUCUS. Mr. President, I yield myself 1 additional minute.

But we have to consider whether S. 1220 is a reasonable starting point or whether it is so flawed that it will be extremely difficult, if not impossible, to improve with floor amendments.

That is the issue. I believe that S. 1200 is so fatally flawed. This legislation gives the energy industry in this country many of the special fixes it has been asking for in the last 20 years. As soon as all prices rise again, as surely they will, this Nation's crippling dependence on oil will become all too apparent, and this legislation will have done nothing to protect us. Our constituents and our children will ask us why we did not act today to protect this country from such vulnerability.

I am voting against the motion to proceed, so that we can begin a debate on energy legislation that will begin to reduce our dependence on foreign oil. I want to debate energy policy, but the issue is how we can feasibly reduce our greenhouse gas emissions, and how we can take other actions to do what our people, our children, and grandchildren want us to do, not go down the road on something that is backward, something that is not visionary, but look toward the future and live up to our constitutional responsibilities as Senators.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute to ask a question of the Senator.

Mr. President, we heard two different descriptions of this bill this morning, one from the Senator from Colorado, who abominates the drilling in the Arctic, but who said that the rest of the bill was excellent. Indeed, he wrote much of it. Another view of it was from the Senator from Minnesota, who said this was an awful, terrible bill, with almost nothing redeeming about it. I wonder what the view of the Senator from Montana is with respect to the rest of the bill. I know well what he thinks about drilling in ANWR.

Mr. BAUCUS. I might ask the Senator if he listened to my statement.

Mr. JOHNSTON. Well, I think what I heard was that he agrees with the Senator from Minnesota.

Mr. BAUCUS. The Senator from Montana frankly believes, and I think the majority of the Members on this side of the aisle believe, that this bill has real problems.

The PRESIDING OFFICER. One minute has expired.

Who yields time? The Senator from Montana and the Senator from Louisiana control time.

Mr. JOHNSTON. I yield 10 minutes to the distinguished Senator from Wyoming.

Mr. WALLOP. Mr. President, I will only have a few brief remarks at this time. Rarely have I heard the type of misinformation and deliberate misstatements concerning legislation as has been engendered on this measure. There will be time to rebut those falsehoods when we actually consider the bill.

What I want to focus on now is the hypocrisy of those who argue that the U.S. Senate should not even consider a national energy policy act.

Are our memories so short or our concern for this Nation so shallow that we do not remember the energy crisis of the 1970's?

Have we forgotten how very vulnerable we are to supply shortages? Have we forgotten the gas lines and the anger in this land when OPEC drove

home to us how dependent we are? Have we forgotten, or do we simply not care, that people were shot for cutting in a gas line? Have we forgotten, or do we simply not care, that some people froze to death? Have we forgotten, or do we simply not care, about the rhetoric which swirled through these Chambers when our sons and daughters went to the gulf 1 year ago?

On April 15, 1988, the senior Senator from Colorado addressed the Senate and stated that:

Reality should force us to recognize that one of the most pressing problems facing this Nation is the need to develop a comprehensive energy policy.

What has changed in 3 years that we no longer need such a policy? Have we found some alchemist's stone, some inexhaustible source of energy?

What is the fear which so drives the opponents of this measure that they seek to prevent rational and reasoned debate? Is the possibility that Congress might actually enact a comprehensive energy policy so frightening that the Senate should not even discuss it? Or is it simply that the lack of an energy policy provides too rich a fodder to forego?

What a dreadful prospect it must be to face a future when opponents cannot give a speech decrying the lack of an energy policy, or when they no longer can accuse the administration of having no domestic policy.

The character of the propaganda against this measure and the special interest groups which write it, speak as eloquently as anything of the poverty of their position: Distortion, innuendo, and outright falsehood fuel their argument. Their unwillingness to have the Senate debate this legislation is understandable for they have no alternative.

The future they offer is as bleak as their vision. It is a future of increasing dependence and insecurity. It is a future where our economy deteriorates, unemployment rises, poverty is rampant. Their future would increase the homeless and cast even heavier burdens on the elderly and those less fortunate. Their future would sap our strength and erode our will. Promises and speeches will bear a bitter fruit as our Nation surrenders its future to sheiks and cartels.

Mr. President, I do not claim that this is a perfect bill nor does the committee and Senator JOHNSTON. There are provisions which I do not like. There were amendments which I offered which were adopted and there were amendments which were defeated. The Senate can and should pass on those amendments. If any Senator does not like the final bill, they can vote against the bill. That is my right as it is for all my colleagues. It is the right of the Senator from Colorado and the Senator from Montana but, by heavens, it is not their right to deny America the ability to debate this policy.

It is their privilege under the rules, but I claim it is not their right.

The position of the senior Senator from Colorado is perplexing. He fully participated in the debate in the Energy Committee; many of the provisions of this bill are his. Look at the renewables, look at the conservation provisions; look at the provisions on natural gas. The fingerprints of the Senator from Colorado are all over this bill, and many of his amendments I supported. They improved the bill. I hope they are enacted and I will defend them against attack, but I do not understand why he and the other opponents would now deny the Senate the opportunity to debate and discuss this measure.

Mr. President, a comprehensive energy policy cannot be one-sided. Conservation is essential. It is critical and I cannot overemphasize that, but conservation does not produce energy.

Conservation extends the life of our supplies. You cannot conserve nothing, you must conserve something. There must be something to conserve. We must have production. Not production at any cost, but we must have production. We should encourage research and development of alternative resources, and any success in that area will also extend the life of our limited energy supplies.

I sincerely hope the day will come when we will no longer rely on fossil fuels. That day is not here, however. The Office of Technology study clearly demonstrates that. In the interim we will continue to rely, especially in the transportation sector, on fossil fuels. The question is whether we should develop our domestic reserves or place our security, our economy, our hopes and dreams in the hands of others.

Let me say to the special interest groups opposing this legislation that their campaign of personal attacks and character smears which you have engaged in will not work. Rather than informed debate, some of these groups accuse anyone who supports any form of domestic production as some form of environmental Iscariot. We have a proud heritage of stewardship of this country and its rich and vibrant heritage. The mountains and lakes, rivers and fields so important to us all should and will be preserved.

Any suggestion that this legislation would desecrate our heritage is simply specious and nothing more than a smoke screen to cover the fact once again that they offer no alternative.

One conservation provision is not an energy policy, Mr. President. It is simply not sufficient to say that there can be no coal production, no oil and gas either offshore or onshore, no hydroelectric and no nuclear. That is not a policy; that is an abrogation of responsibility. There is the disease of the soul which renders our strength into impotence and our wisdom into ignorance

Mr. President, I close my quoting from a statement which the President pro tempore, Senator BYRD, made in the Senate August 6, 1987. I quote:

As the situation in the Persian Gulf deteriorates and the American military involvement escalates, we are once again, witnessing the disastrous consequences of * * * refusal to develop an energy policy. Once again, Iran appears to be threatening oil supply lines in the Persian Gulf. Just yesterday, Defense Secretary Weinberger told reporters that he did "not know when it—American military buildup in the gulf—will be enough."

Once again, this great Nation, so blessed with energy producing resources is forced to rely upon our military might to secure the very lifeblood of our industrial society—energy.

This is not the first time we have done so. In May 1984, the Ayatollah Khomeini threatened to disrupt the oil supply lines at the Strait of Hormuz. To ensure that oil continued to flow from the strategic area, the United States was forced to rattle the saber.

How often must we be reminded that the national security of the United States rests upon our energy security? In other words, there is no national security if we do not have energy security.

In response to the twin energy crises of the 1970's America undertook the development of an energy policy to ensure that the United States would never again be subjected to the vagaries of that highly unstable region or to international blackmail, as in 1973. Since 1973, there has been a bipartisan effort to set our sights on energy security by merging our technologies genius with our abundant natural resources.

We must have an overall policy; we need a comprehensive national energy policy that will fully develop our massive coal reserves, as well as our oil, gas, and other energy resources.

The United States has the resources and the technology to develop the energy security that would free us from the despots and uncertainties of the Middle East. What we need is the leadership and determination to put in place a long-term, comprehensive, energy policy. There can be no real national security without energy security.

Mr. President, those words were wise then, and they are wise words today. The senior Senator from West Virginia was precisely correct.

The legislation reported by the Energy Committee offers the Senate the opportunity to work its will on whether we will or will not have such a policy. Those who oppose proceeding to this legislation would deny us that.

I urge my colleagues to support the motion to invoke cloture.

I thank the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for up to 10 minutes.

Mr. CHAFEE. Mr. President, I would in starting point out to my distinguished colleague from Wyoming—who I had the pleasure of coming to the

Senate with at the same time in 1977—that in his remarks, he is very stern against those who would object to proceeding. I would gently remind my esteemed colleague that just within the past 2 weeks, he objected to proceeding to the Federal Facilities Act, and indeed we had to go to a cloture motion there, which my good friend voted against.

So I think it depends which day we are talking about. And those of us who do not want to proceed on this are acting just in the same spirit that my good friend from Wyoming acted within the past 2 weeks in connection with the Federal Facilities Act.

Mr. President, today I rise to outline my opposition to proceeding with S. 1220, the National Energy Security Act of 1991. This bill was reported by the Committee on Energy and Natural Resources on June 5 of this year. As ranking member of the Committee on Environment and Public Works, I have expressed strong jurisdictional interest in the bill. In fact, Senators JOHNSTON and WALLOP wrote to me on February 5 of this year to point out that the energy strategy included several provisions that cut across committee jurisdictional lines. Recognizing the environment committee's interest, they requested my views and help refining the bill. Due to the myriad of jurisdictional concerns, I and several members of the Environment Committee, including our chairman, Senator BURDICK, wrote to Senators JOHNSTON and WALLOP on February 20 seeking sequential referral of the original energy package and never received an answer, to the best of my knowledge.

Mr. President, I ask unanimous consent to print in the RECORD those letters.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, February 5, 1991.

Hon. JOHN H. CHAFEE,
Ranking Republican Member, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR JOHN: Earlier today, we introduced the National Energy Security Act of 1991, a copy of which is enclosed. It is a comprehensive energy policy bill that addresses the urgent need to reduce our nation's dependence on imported oil through domestic production and conservation.

Together, the fifteen titles of the bill form a balanced program rather than a collection of unrelated proposals. Of necessity, the package contains provisions that cut across jurisdictional lines. We recognize your Committee's interest in some of these and welcome your views and help in refining them.

Enactment of a national energy policy is long overdue and we intend to move with deliberate speed. Our goal is to mark-up the bill and report it to the Senate in April.

We look forward to your support and active cooperation in helping us in this important endeavor.

Sincerely,

J. BENNETT JOHNSTON,
Chairman.

MALCOLM WALLOP,
Ranking Republican Member.

U.S. SENATE,
February 20, 1991.

Hon. J. BENNETT JOHNSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: Thank you for your recent letter seeking our assistance and cooperation in the development of a comprehensive national energy policy. We share your view of the need for such a policy, and we welcome the opportunity to work with you to achieve that objective.

The Committee on Environment and Public Works has, as you have correctly noted, jurisdiction over a number of the matters addressed by S. 341, the National Energy Security Act of 1991. Consequently, we believe that the most efficient and effective manner for us to assist in the development of a national energy policy would be for you to agree to a referral of S. 341, or portions thereof, to the Environment and Public Works Committee so that our members can consider that bill properly and fully.

Section 5101 of S. 341, for instance, limits the New Source Review requirements in the Clean Air Act as they apply to electric utilities. As such, the legislation would amend that Act to re-open the so-called "WEPCO" issue, which the Clean Air Act conferees explicitly agreed in October 1990 to defer to agency action. This issue and other matters relating to air pollution are within the sole jurisdiction of the Environment and Public Works Committee. In addition, we do not believe that it is constructive to re-open the Clean Air Act so soon after enactment of the 1990 Amendments. Reauthorization of the Clean Air Act was an extremely arduous and complex task that took 13 years to accomplish. Any effort to amend this Act will reopen consideration of scores of other issues, including governmental mandates regarding fuel availability.

Subtitle B of Title III of S. 341 would make new requirements applicable to Federal buildings. The sole jurisdiction of the Committee on Environment and Public Works over matters relating to public buildings makes inclusion of these provisions in S. 341 a matter of serious jurisdictional concern.

Subtitle D of Title III of the bill requires the Energy Secretary to promulgate and implement used oil recycling requirements. It also amends the Solid Waste Disposal Act to prohibit the EPA Administrator from listing used oil as a hazardous waste. Both of these matters relate to solid waste of management, including recycling and disposal and, as such, are within the sole jurisdiction of the Committee on Environment and Public Works. The substance of this portion of S. 341 was recently introduced as separate legislation, S. 399. It is important to note that S. 399 was properly referred to the Committee on Environment and Public Works.

The Committee also has sole jurisdiction over matters relating to water pollution, including section 401 of the Clean Water Act, which provides authority for States to certify that projects requiring a Federal license or permit, including hydropower projects, are consistent with State water quality standards and goals. S. 341 would restrict existing authority for State water quality certification of these projects. Issues related to section 401 should and will be considered by the Committee on Environment and Public Works as it develops legislation to reauthorize the Clean Water Act this year.

The Environment and Public Works Committee has sole jurisdiction over matters relating to the U.S. Fish and Wildlife Service, its programs and the management of fish and wildlife resources generally. The single largest responsibility of the U.S. Fish and Wildlife Service is the management of the National Wildlife Refuge System. Approximately one third of the U.S. Fish and Wildlife Service's annual program expenditures are allocated for the management and protection of fish and wildlife within units of the National Wildlife Refuge System, including the Arctic Refuge. Title IX of S. 341 significantly affects the future management of the Arctic National Wildlife Refuge and also affects and amends other laws and programs within the jurisdiction of the Committee on Environment and Public Works. Section 9201 of S. 341, for instance, prevents "further findings or determinations of compatibility by the Secretary [of the Interior and, therefore, the U.S. Fish and Wildlife Service] under the National Wildlife Refuge Administration Act" with respect to activities in 1.5 million acres of the Arctic National Wildlife Refuge.

Units of the National Wildlife Refuge System, including Arctic National Wildlife Refuge, are managed by the U.S. Fish and Wildlife Service under the National Wildlife Refuge System Administration Act of 1966 (P.L. 89-669). This Act restricts the uses of refuge areas to those that the U.S. Fish and Wildlife Service determines to be compatible with the major purposes for which a refuge was established. That Act is within the sole jurisdiction of the Environment and Public Works Committee.

Two other bills that address matters relating to the management of the Arctic National Wildlife Refuge, S. 39 and S. 344, already have been referred to this Committee and are under active consideration.

Section 9303 of S. 341 makes the determination that the Department of the Interior's Final Legislative Environmental Impact Statement (LEIS) on the Coastal Plain is adequate and satisfies the legal requirements of the National Environmental Policy Act. The communication from the Secretary of the Interior transmitting this Final LEIS on the Coastal Plain, pursuant to Title X of the Alaska National Interest Lands Conservation Act, was referred solely to the Committee on Environment and Public Works on July 8, 1987. Moreover, it is well established that the National Environmental Policy Act is within the sole jurisdiction of our Committee.

The Committee will be conducting hearings to consider the recommendations and legislation that have been referred to it concerning the future management of the Arctic National Wildlife Refuge's Coastal Plain. The scope of our review, therefore, includes evaluation of the adequacy of the Interior Department's Final LEIS on the Coastal Plain and consideration of S. 39 and S. 344.

The entirety of Title XIII, Nuclear Reactor Licensing, is within the sole jurisdiction of the Committee on Environment and Public Works. Nuclear reactor licensing has always been considered within this Committee's jurisdiction over the non-military environmental regulation of nuclear energy. In prior Congresses, bills that have sought to modify the nuclear licensing process have consistently been referred to the Environment and Public Works Committee.

For the same reason, various provisions of Title XII, Advanced Nuclear Reactor Commercialization, are also within the sole jurisdiction of the Committee and Environment and Public Works. For example, sections 12005(f) and 12006(d) concern the same licensing issues as Title XIII, and are therefore

within our Committee's jurisdiction. Other provisions in this title could affect the safety of nuclear facilities, and are therefore also within the jurisdiction of the Committee on Environment and Public Works.

Finally, we note that Title X of S. 341 has provisions that duplicate, override and circumvent the National Environmental Policy Act and the regulations issued pursuant to that Act by the Council on Environmental Quality. These matters, as pointed out above, clearly fall within the sole jurisdiction of this Committee.

For these reasons, we ask that you join with us in consenting to the referral of S. 341 to the Committee on Environment and Public Works.

We look forward to your cooperation with respect to this and other matters of mutual concern.

Sincerely,

John H. Chafee, Dave Durenberger, Quentin N. Burdick, Max Baucus, Frank R. Lautenberg, Bob Graham.

Mr. CHAFEE. Mr. President, this bill has 13 clear-cut instances where the Energy Committee has barged into the jurisdiction of the Environment Committee. I am not solely opposed because of a turf battle, a jurisdictional battle. I am opposed because of the results reached by the Energy Committee: It runs roughshod over environmental protection.

Some instances: Last year, by a vote of 89 to 11, the Senate passed the Clean Air Act, and that Clean Air Act dealt with what we call new source review requirements in the Clean Air Act to electric utilities. As such, the legislation would amend the act to reopen the so-called WEPCO issue. The bill changes that, gets into that matter, reopens it once again.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. CHAFEE. If I might finish, then I will be glad to deal with any questions.

Second, this bill gets into the matter of chlorofluorocarbons, a matter of intense interest to me, a subject we have dealt with in the Environment Committee for many years. There is no question but CFC's are the primary cause of the destruction of the Earth's ozone layer, and just last week news came out that destruction of that ozone layer is proceeding far more rapidly than we previously thought. And this is principal cause of skin cancer and myriad changes in our environment.

So in the Clean Air Act, we provide for an elimination schedule for CFC's in title I of the energy bill. Can you imagine it; they get into this area. They override the schedule for the CFC reduction that was included in the Clean Air Act. And, in addition, this act eliminates the EPA Administrator's authority to accelerate the schedule even further. This represents a major step backward in an effort to phase out the use of CFC's.

Secondly, and in connection with the CFC's, it specifically recommends research on HCFC-22 which is a replacement for CFC's. But this is just the approach we are trying to avoid. If the Federal Government is going to support research on substitutes, we should focus our resources on pure and safe substitutes, not substances with many of the same environmental hazards represented currently by CFC's and included in HCFC's.

These issues including several provisions of title IV relating to fleets and alternative fuels substantively modify the requirements of the Clean Air Act. Time and time again, this bill gets into the Clean Air Act's jurisdiction. We should not reopen the debate on the Clean Air Act. Reauthorization of that act took 13 years, Mr. President.

Where else am I talking about getting into the jurisdiction of a committee which has special knowledge in certain areas? Title VI amends the Solid Waste Disposal Act to prohibit the Administrator of EPA from listing used oil as a hazardous waste. This is solely within the jurisdiction of the Committee on Environment and Public Works.

Next, the National Environmental Policy Act; NEPA is under constant attack in this legislation, most directly in titles V and XI, which deal with hydropower and natural gas. NEPA is considered to be a watershed in the history of environmental legislation. It was enacted in 1970, and it requires a prior analysis of the environmental impact of proposed Federal actions. It functions as nothing less than the environmental conscience of the Federal Government. NEPA is solely within the jurisdiction of the Environment Committee, not of the Energy Committee, where they make changes in how NEPA is applied.

Nuclear reactor licensing; that is not within the area of the Energy Committee. That is an area that belongs in the Environment Committee, where there is expertise. Yet, in title IX of this bill, they have a provision in there to streamline nuclear reactor licensing, which is none of their business.

I would like to turn to title V. Section 5303 authorizes the Secretary of Energy, in consultation with the Secretaries of Interior and Army, to prepare a study of each of the Nation's principal river basins to identify opportunities to increase hydropower production at existing Federal water project facilities.

This impacts the projects operated by the Army Corps of Engineers, an agency which is under the jurisdiction, in this particular area, of the Water Resources Subcommittee of the Environment Committee.

Second, there is no language included in this particular provision dealing with cost sharing. I might say, that is a matter I have personally devoted a tremendous amount of time to, requiring cost sharing before we move ahead with these water resource activities. This says nothing about that.

On the Arctic National Wildlife Refuge, I am not going to develop this. Others will deal with whether we should explore for oil or should not. I have my own strong views on that. I might say that bill significantly reflects the future of the refuge. The status of that wildlife refuge is under the jurisdiction of the Environment Committee.

These are just a few of the jurisdictional concerns that I have, Mr. President. But this is not just a turf battle. The Senate has established committees as repositories of expertise for the purpose of reviewing particular issues. And this procedure has been breached in these instances, as I pointed out. Not just in the instances I pointed out, but in a total of 13 major ones.

In conclusion, let me say this, Mr. President. OMB has scored this legislation as costing $7.5 billion over 5 years. It provides subsidies for the development of coal, the use of coal. It really is the Synfuels Program all over again, something we finally ended after a great deal of strife and difficulty.

Listen to this one, Mr. President. In section 14107, it even provides for research for coal-fired locomotives. Where are we going, Mr. President, under this?

It provides for the development of coal, changing it into methanol. Not only is this incredibly expensive, but there are few ways that we could create more greenhouse gases; namely, carbon dioxide, than through the change of coal into methanol.

So, Mr. President, this bill needs a great deal more work. I believe it should go back to the proper committees, and I will therefore vote against the motion to proceed.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

Mr. President, my friend from Rhode Island said that this is a massive assault on his committee. Many of these provisions really belong in both committees. For example, used oil, the disposal of it, is both an environment and public works problem and it is also an energy problem, because by reconstituting it, putting it back in the refineries, we have a tremendous energy source.

WEPCO, we have already publicly announced that we would not pursue that. CFC's is also to be cured with a technical amendment. That was proposed by the distinguished Senator from Colorado, and it is really only a technical provision. I mean, to say that we deal with CFC's in a massive way is just not correct.

Mr. CHAFEE. Mr. President, will the Senator yield?

Mr. JOHNSTON. Mr. President, I asked the Senator to yield for a question. He would not. So let me finish what I have to say.

Mr. President, as far as ANWR is concerned, the bill on ANWR, we had a discrete bill which was referred to us. We clearly had jurisdiction over that. I understand, if you make it a wildlife refuge, it would be in the EPW Committee. It is shared jurisdiction. As far as scoring is concerned, Mr. President, this bill does yield money for the Treasury. It does not score negatively.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHAFEE. Mr. President, did I use my total time?

The PRESIDING OFFICER. The Senator's time has expired.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 7 minutes to the Senator from Alaska.

Mr. MURKOWSKI. Might I have 10? Eight?

Mr. JOHNSTON. Try it on 8.

The PRESIDING OFFICER. The Senator from Alaska [Mr. MURKOWSKI] is recognized.

Mr. MURKOWSKI. Mr. President, I think we are seeing an extraordinary situation here. We are debating whether this bill, a comprehensive energy bill, should even be taken up. I am absolutely appalled that my colleagues would take a position opposing the debate on an energy policy for this Nation. Many of my friends have criticized the administration for not having a national energy strategy. If we do not get an energy policy, they are going to have to bear the responsibility. They said time and time again, where is this Nation's energy policy?

Mr. President, this is a comprehensive bill. Make no mistake about it, it represents compromise. Compromise by itself simply dictates a reality that there is give and take in the process. But here we have a situation where clearly the opponents are threatening to kill the bill before it is considered before this body for debate. What an extraordinary, inappropriate set of circumstances for this body. And now we are seeing a petty jurisdictional squabbling on behalf of the Environment and Public Works Committee. If you will notice, most of the Members who have spoken are members of that committee.

Where have we gone in the collective obligation we have to work together, to overcome what obviously is needed in this Nation, and that is to develop a responsible energy policy? We can only do it by proceeding with debate, by proceeding with the amendments, and carrying on in a responsible way. We are like crabs walking down the beach; we are going sideways. It is absolutely incredible, Mr. President.

Let us make no mistake about it. Senator JOHNSTON and Senator WALLOP have worked hard on this bill. It came out of our committee by a vote of 17 to 3. There are responsible Senators who took part in an extraordinary, timely, and extensive debate to develop this energy policy; 17 to 3 is a strong vote out of any committee in the Senate. But here we have the Environment and Public Works Committee saying no, no, no.

What we are seeing here is not an effort to work toward the development of a comprehensive energy bill. We are seeing an effort to simply kill it. Of course, ANWR is the lightning rod.

Mr. President, we are discussing issues that were discussed in the mid-seventies. It is the same situation all over again. And if we had prevailed—when I say "we" I am talking about the opponents—in the late sixties and early seventies, Prudhoe Bay would not have been developed—Prudhoe Bay, the finest oil field in the world. It is not perfect, but it is the finest oil field in the world. We can do better if we are lucky enough to find oil in ANWR, but we will never know unless we have that opportunity.

These are the same issues; whether the caribou will cross the pipeline, whether the moose will cross the pipeline, whether you can build a hot pipeline in permafrost.

This body passed the authorization for that pipeline, and it was developed, and it has been producing 25 percent of the total crude oil that this country has had for the last 15 years. Where would we be today if we did not have that 2 million barrels a day? Instead of importing 7 to 8 million barrels a day, half from OPEC, we would be importing 9 to 10 million barrels of oil per day. Instead of $54 billion of U.S. money going over there and enriching our neighbors, we would be sending $70 to $75 billion.

Do you know what else happened during that period of time that nobody addresses? We brought on the first CAFE standard which increased and led to the current CAFE of about 27.5 miles per gallon. We have saved millions of barrels of oil through CAFE standards. Saving oil consumption through conservation is good policy. We also brought on 2 million barrels a day through the Prudhoe Bay oil fields. Today we are in the same situation. We need conservation, but we also need responsible oil development in this country. The opponents speaking here today say throw it all out. Throw out a comprehensive national energy policy.

What are we doing to this country, Mr. President? This is a jobs issue. We are looking at a decline in our economy. Exploration and development in ANWR could create 735,000 jobs throughout the United States. Do you know what development in ANWR would do to the gross national product of this country. It would increase it $50 billion. How can we in conscience stand here and suggest that this should not be brought before this body? Mr. President, it is absolutely incredible.

Let there be no mistakes about it. You look at the deficit balance of payments, and you clear away the cobwebs, and where is it? Half of it is Japan and the other half is oil. No question about it, Mr. President. The reality is the growth of consumption is not in the United States, it is not in the Pacific rim countries; it is in the Third World.

The Third World is increasing its standard of living. They are going to demand more oil production.

What is going to happen in the United States? I am sure our friends in OPEC are watching this debate with great interest. Here we stand watching this Senate debate on whether or not we are going to increase our domestic oil production or simply abandon efforts to increase production in the most logical place, in the United States, where we might find major discoveries.

What an extraordinary opportunity, because they can simply see that more business is coming from the United States.

The Department of Energy has a very interesting forecast. They say if you find oil in ANWR of the magnitude they expect, the actual imports of this country by the year 2010 or thereabouts will only increase by 1 million barrels a day. But if we do not find oil, as a consequence of the decline in production in this country and the realization that Prudhoe Bay is declining at 10 percent a year, imports will double. Instead of importing 8 million barrels a day, we will be importing 16 million barrels a day.

What does that mean to the economy of this country? What does it mean to the ability of OPEC to hold us hostage? We just fought a war over there and we fought that war against naked aggression. And we also fought it to keep oil flowing to the Western World, make no mistake about it.

My colleagues would have you believe that America's environmental community is absolutely committed to take no prisoners on this debate. That is not true. That is a minority of Americans. It does not represent those who are interested in jobs. It does not represent the attitude of the AFL–CIO that stands behind this legislation; the maritime unions of this country that are dependent for their jobs because the oil flows from my State of Alaska down to California in only U.S. vessels, that are only U.S. crew, that are only built in U.S. shipyards.

Do you know what we are going to do, Mr. President? We are going to bring oil in from OPEC and are going to bring it in foreign ships with foreign crews made in foreign yards. Talk about buy American—it is incredible.

The Jewish Orthodox Union is supporting this legislation. Do you know why? Because they do not want to see America become more dependent on OPEC.

So there are some inconsistencies here, Mr. President, that I think are truly incredible. We are, without any action, considering not taking up for debate the largest single construction project that is identified in North America: 735,000 jobs in 50 States. I am sure the American public wants to hear more about this bill. This should be debated. This bill should be taken up for consideration. It would be a travesty—the worst kind of a travesty—if that did not happen.

The PRESIDING OFFICER. Who yields time? The Senator from Montana [Mr. BAUCUS].

Mr. BAUCUS. Mr. President, I will yield 10 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado [Mr. WIRTH] is recognized for up to 10 minutes.

Mr. WIRTH. I thank the distinguished Senator for yielding. We have had much of this discussion before and we will have more in the future, but in the 10 minutes available to me, Mr. President, I would like to try to do two things. First, is to clearly outline where we are procedurally and why so many of us feel that our rights as Members of the U.S. Senate are not being honored by the procedure under which this bill is being brought up. The second, is to talk about the substance of the Arctic National Wildlife Refuge issue.

Mr. President there are, as we have explained, two very, very contentious issues in this piece of legislation, or related to it. One of those is the corporate average fuel economy issue; the other is the issue of whether we should open up the Arctic National Wildlife Refuge.

On the 14th of September 1990, and then again on the 25th of September 1990, we attempted to bring to the floor legislation to increase corporate average fuel economy, the bill authored by the distinguished junior Senator from Nevada [Mr. BRYAN]. That bill was filibustered under the rules of the U.S. Senate. Under the rules of the Senate, any Member of the Senate can mount a filibuster to talk against a bill, and in order to break that filibuster the opponents have to have 61 votes.

CAFE was filibustered, and that filibuster was supported by many of the people who have spoken against filibustering this bill today. They filibustered CAFE and our ability to bring it up. We had 57 votes, but we could not, under the rules, bring up a CAFE bill. But that is the right—the right to filibuster—that anybody in the U.S. Senate has.

We are, however, under the procedures of this bill, being denied our rights. We cannot get a clear shot at the Arctic Refuge. The provisions to drill Arctic National Wildlife Refuge are part of this overall bill. We cannot filibuster the title related to the Arctic Refuge. It is already in the bill. So the only recourse that we have is to filibuster the whole bill and that is what is going on now.

Many of us do not want to filibuster the whole bill. I have said on any number of occasions I do not want to filibuster the whole bill. I wrote major sections of the bill. I let the distinguished chairman of the committee understand my opposition to the Arctic. There are other parts of the bill that I think make a great deal of sense. Some of those can and should be changed on the floor as well. Let the Senate work its will. But let those of us, Mr. President——

Mr. JOHNSTON. Will the Senator yield?

Mr. WIRTH. I will be happy to discuss this with the distinguished Senator from Louisiana on his time, if he will hold on a minute.

Those of us who believe it is bad policy and fundamentally wrong for us to be drilling in the Arctic National Wildlife Refuge should have the same rights as any other Member of the U.S. Senate to filibuster a bill on the Arctic.

Why should we be denied those rights? We are being denied those under the current procedure. The only choice remaining to us is to filibuster the whole bill.

Mr. President, we have made the offer over and over and over again to separate out the Arctic Refuge provisions and have votes on that particular bill so we have our rights, as the people who are opposed to CAFE exercised theirs before. Let us do that and then get on with the other 14 titles of the bill, most of which I think almost everybody on this floor is going to support.

We are going to have widgets to turn here, and bells and whistles to add there, and some fundamental changes, a lot of different ideas—that is the nature of this institution. But then let us get on with the other 14 titles of the bill. That is only fair.

For those to be arguing that we are opposed to all energy policy by this filibuster is simply flat wrong. We are only asking that we be treated as other Members of the U.S. Senate are treated, and we do not feel that that is happening under the current procedures and the way in which this bill is being brought to the floor.

For those who are not very involved in the rules and procedures of the Senate this may sound obtuse and difficult, and it is. But it is the filibuster rule that allows individuals—originally it was there to provide protection to each State, no matter how small—to allow them to protect themselves. That is what we are attempting to do, is to protect not only what we stand for but to protect a very important National Wildlife Refuge. That procedurally is what this debate is all about.

Now, if I might turn in the time remaining to me, very briefly, to the substance of this issue. We are as a nation—this is where I am coming from on this—we are as a nation overwhelmingly dependent upon oil, and it is time for us to change our ways.

This chart clearly points out our total energy use, and the yellow bars show our use of petroleum. It overwhelms all other energy sources. We know how dependent on oil we are. We ought to change our ways.

If we do not change our ways, Mr. President, here is what the administration projects in terms of current oil imports. Here is where we are today. This is where we are going to be by 2010. Our imports of oil will almost double. We have to change our ways.

If we do not change our ways, the current economic disaster which surrounds us is going to continue. More than 50 percent of our import problem, more than 50 percent of our trade deficit problem, relates to oil. We have this huge amount of American capital going overseas to buy oil because we are so dependent upon oil. And as pointed out here, that is going to get worse. We have to change our ways.

Next, the argument is made that drilling in the Arctic is going to solve our problems. That is preposterous, if we just look at this tiny little blue sliver that is the best estimate—optimistic—about what might be in the Arctic. Is that going to change our whole pattern? Of course not.

The red graphic shows the amount of known reserves in the Middle East. It is overwhelming. The yellow is what we have left in the United States a small fraction of the red. The blue is what comes from the Arctic—a small fraction of the yellow.

If we drill in the Arctic, use all the Arctic oil, then where are we?

We just push off the need to change our ways for another 200 days. We have to change our ways.

Does the Arctic provide an opportunity for us to change our whole energy future by drilling up there? Here is a chart of the administration's own estimates as to what we have. Here is our current policy based on energy oil production available to us. Note this tiny sliver here is the amount coming out of the Arctic. If we do aggressive enhanced oil recovery, this is the next big piece here, and natural gas under current policy is here. Each of those overwhelm any contribution from the Arctic. Is the Arctic going to change our ways? Absolutely not. These are the administration's own numbers, Mr. President. It makes no sense.

If we look at the need we have for energy, if we look at where that energy is coming from, if we look at our increas-

ing dependence on oil, the Arctic does not change the pattern at all. We have to change our ways, Mr. President.

How do we do that? There are a whole variety of things that we can do that are much more enlightened and progressive and look forward out the windshield to the future rather than backward through the rear view mirror on an old oil-dependent economy. All we have to do is start right now and some of this is in the bill.

We are, in the United States extraordinarily wasteful and profligate. This is a chart, Mr. President, that explains units of energy per unit of gross national product. How much gross national product do we get from a unit of energy? We are, in the United States, at 64. The Swiss at 190. The Swiss are much more energy efficient than we are. The Swiss are three times as energy efficient. Granted it is not a perfect parallel. They do not have the transportation problems that we do, but it is instructive and illustrative. The Japanese are 2.5 times as energy efficient as we are. The French are almost twice as energy efficient as we are. The West Germans are more than 50 percent more efficient as we are. The West Germans are more than 50 percent more energy efficient than we are. Canada is the only major country that is more profligate than we are. This illustrates, Mr. President, one of the ways in which we can change our ways.

There are a number of other things in this bill, Mr. President, that allow us to move toward changing our ways. One of those is to move to alternative fuels and alternative fuel vehicles. There are some very good provisions in this legislation to help us to do that.

Another is to move more aggressively to natural gas—and I will be talking about that later in this debate—a resource that we have an abundance of in the United States. Mr. President, if any of the Members of this body stood up in front of their constituents and said to them we have a resource in the United States that is abundant, it is clean, it is domestic, and it is cheap but we are not using it, we would be hooted out of office. But that is just the case. We have a resource in this country—natural gas—which is abundant, which is cheap, which is clean, and domestic, and we are not using it. We have to change our ways.

One issue here, Mr. President, is a procedural one. We are not being treated with the same rights everybody else is. That is all we are asking for.

Second, going to the substance of drilling in the Arctic, drilling in the Arctic is looking out the rear-view mirror. Drilling in the Arctic is continuing our dependence on oil. We have to change our ways in the United States. There are a variety of ways in which we can do that, but adding a tiny bit of oil in the Arctic is not going to do that.

Let me run through this again, Mr. President.

I want to explain to the Senate why we need to reconfigure the energy bill before it comes to the floor. But before I do, let me just briefly state my deep admiration and respect for our distinguished chairman on the Energy Committee, Senator JOHNSTON. The Senator from Louisiana is one of this institution's most accomplished and effective legislators. And he has brought those skills to bear in an incredible effort to craft energy policy for the Nation. He has been absolutely tireless in this pursuit—it has been remarkable.

As the Senator from Louisiana wrote in this morning's Washington Post, there is a great deal of consensus about the vast majority of this bill, on energy efficiency, alternative fuels, natural gas, renewable energy programs. And that is a credit to our chairman. Unfortunately, there is one item in this bill—the title opening up the Arctic for oil exploration—that I cannot accept and about which we obviously disagree. This morning, I want to explain why.

The administration is promoting a very future-oriented arms control policy. Unfortunately, it is still on issues of natural resources, energy and the environment, hopelessly tied to policies of the past.

The Senate is now being asked to consider national energy policy legislation that closely parallels the President's energy proposal. Unfortunately, that legislation is a package built on a premise that I simply reject, that in order to get a meaningful energy policy, we have to agree to open the Arctic National Wildlife Refuge to oil drilling.

The administration has threatened to veto any energy bill that does not open the Arctic National Wildlife Refuge to the oil companies. Chairman JOHNSTON says that the ANWR provisions are a sacred item in the bill. All of us have seen firsthand the enormous lobbying effort going into this issue.

But the argument cannot be made that oil from the Arctic Refuge is going to put us in a strategically more focused and more leveraged situation. If we believe that we can produce our way beyond the ability of Middle Eastern monarchs to run the world oil market, this chart should make it very clear that there is no way in the world that we can do that.

The oil that may be in ANWR would not make a dent in the balance of oil power around the world. The Middle East has 660 billion barrels of oil. U.S. reserves are 26.5 billion barrels, and optimistic projections for the Arctic—an additional 3.2 billion barrels—are a tiny change in world oil power.

The President's own national energy strategy points out that we are going to be importing more oil at the end of his national energy strategy than we are today. Certainly, that is not, at least for any rational analyst, the way to reach energy security.

If we continue to keep our focus on oil, if the drilling of the Arctic Refuge is our answer, we are going to be dependent on the Middle East. That is, in fact, a policy of business as usual.

We have lots of alternatives to drilling in the Arctic Refuge. The administration's own figures show that the potential for increasing U.S. production through further research and promotion of enhanced oil recovery at existing fields dwarfs the contribution that the Arctic might make, if there is oil there at all.

The Arctic National Wildlife Refuge is no panacea; it is no silver bullet. It provides a tiny little bit of oil. An energy strategy that is centered on alternatives to oil such as natural gas and other alternative fuels, and on energy efficiency, is what we should be focused on. That would be good energy policy, good economic policy, and good environmental policy.

Why then, the Arctic? If there is oil there, and if its development follows the pattern of profits that have come out of Prudhoe Bay, the oil companies would eventually be making $6 a barrel after taxes. That means the profit to a handful of major oil companies is going to be $21.6 billion.

That is what this is all about, Mr. President. That is why the American Petroleum Institute has reached out and put the arm on every single energy producer in the country. That is why this enormous effort is going to open up the Arctic Refuge. That is why these companies have unleashed every bit of lobbying effort they possibly could to open up the Arctic, and made this footnote to our energy security the be-all and end-all of this bill.

The Arctic National Wildlife Refuge is a huge, imposing, wild, productive, pristine, and very threatened wilderness. I have been there. It is not just another piece of tundra. When it was selected as a wildlife refuge by President Eisenhower, he had his pick of the entire north slope. He picked this spot, and he was right.

If we turn this wildlife refuge into a huge industrial plant for a 200-day extension of our reliance on oil, how can we say to the Brazilians that they should stop tearing down the Amazon? And how can we take the moral high ground on any international natural resource issues?

Mr. President, the battle for the Arctic reaches much beyond the Arctic Circle. It is a key test of the leadership which we ought to be exercising around the world. If we decide the oil is worth risking these environmental values and our commitments to them, we will be sending a message to the world that we will sacrifice anything for more oil. That is a policy of desperation and blind inertia, not one of national

strength. It is also a policy that the Saudis, the Iraqis, and the Iranians are going to love to hear because they are banking on our having just such a policy—oil at any price.

That is, Mr. President, a view of energy policy that, as I hope I have explained, ignores the fact, is mired in the past and presents a view of energy policy that is extremely damaging to our future.

Yet, the administration continues to tell us that the opening of the Arctic National Wildlife Refuge is indispensable to our energy policy. The administration has threatened to veto any bill that does not include a big opening for the Arctic National Wildlife Refuge. The gauntlet has been thrown down.

These statements, Mr. President, have changed this bill from a potential vehicle for building a progressive energy policy for this country to a vehicle for developing the Arctic National Wildlife Refuge.

Mr. President, the purpose of the Senate is to reach consensus. That is why we have rules which are so protective of the rights of every Senator, and even more protective of the rights of a significant minority within the Senate.

The President and his colleagues in the minority have used those rules throughout this Congress. Those pressing civil rights legislation were required to get 60 votes before they could proceed, and Senator KENNEDY and Senator MITCHELL compromised and altered their bill in order to get those votes and move forward.

When the Senate Environment Committee reported a strong Clean Air Act last Congress, those who opposed it did not agree to let it come up and have up or down votes on the floor. No, lead by the Republican leader, they required the Environment Committee to put together 60 votes to proceed, and when the committee could not do that with the bill they reported, the opponents worked with the committee leaders to put together a bill that did satisfy at least 60 Senators.

I oppose opening the Arctic National Wildlife Refuge, and there are many of my colleagues who not only oppose that, but have many other problems with the bill. And we intend to put the question to the Senate: Do you want this bill, or do you want it changed? And if you want it changed, vote with us against cloture on the motion to proceed so that we will have the leverage to seek that change.

That is how the Senate was designed to work. Often, it works against policy proposals I support, and I am stuck with that. There have been 16 cloture votes in this session, and in the overwhelming majority of cases I have voted for cloture. But I would be foolish if I allowed myself to be required to get 60 votes to proceed to things I want, and then failed to insist that things I don't want don't also require 60 votes.

That is not tyranny by the minority, Mr. President: It is how the Senate is supposed to work under its rules. It certainly is less of a burden on the majority than the procedures the President routinely puts us under, requiring us to get 67 votes to overturn his veto.

I am not trying to stop energy policy, any more than Senator DANFORTH was trying to stop civil rights legislation, or than Senator DOLE was trying to stop clean air legislation. I am trying to protect the Arctic Refuge, something I have espoused since 1978.

I have spent hundreds and hundreds of hours on energy policy and hundreds and hundreds of hours trying to perfect S. 1220. I think that legislation has many good things in it on conservation, emphasis on using natural gas, requiring the use of alternative-fueled vehicles, improving energy efficiency. I believe that there is a great consensus in the Senate for such measures. I believe that those issues, if brought independently to the Senate floor, would pass the Senate, would pass the Congress by a very large margin. And yet the Senate has held these issues without action for 5 months because of one issue: the Arctic National Wildlife Refuge. That just does not make any sense.

We are being held hostage, the country is being held hostage, the Senate is being held hostage, our future is being held hostage to the opening up of the Arctic Refuge, a policy that points us in just the wrong direction.

I hope that, in fact, we are victorious in stopping consideration of this bill at this time, so that we can negotiate a package that I can support. These are important issues. The Senate needs to take them up carefully, and not allow itself to be steamrolled by threats of what must be in this bill.

Many positive and progressive measures on energy, Mr. President, could be passed here on the floor of the U.S. Senate, absent the Arctic Refuge. I would hope that that is what we end up doing. But we should not be forced to consider drilling the Arctic Refuge as the price of admission. I urge my colleagues who want to see this bill change to vote with me against cloture on this bill.

Mr. President, I ask unanimous consent that an explanation of the charts I have referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ARCTIC REFUGE AND ENERGY LEGISLATION

CHART NO. 1—OIL DOMINATES OUR ENERGY PICTURE

Oil accounts for 40 percent of our energy consumption; we are importing 50 percent of the oil we use—more than 7 million barrels of oil per day; U.S. energy bill is $400 billion annually; Natural gas is 23 percent of energy consumption; coal—22 percent; nuclear—7 percent; renewables (primarily hydro)—8 percent.

CHART NO. 2—OIL IMPORTS INCREASING NOW AND IN THE FUTURE

Oil imports have increased 63 percent since the mid-1980's. We now import more than 7 million barrels per day. The costs of imported oil were clear in the Gulf conflict—a recent GAO report found that $420 billion was spent directly and indirectly to protect Gulf oil supplies—a subsidy of $3 per gallon. Our dependence makes us vulnerable—if a despot like Saddam Hussein controls the region, they would control more than 60 percent of the world's oil.

CHART NO. 3—OIL IMPORTS ACCOUNT FOR 54 PERCENT OF TRADE DEFICIT

Oil imports cost $54 billion in 1990; oil imports are 54% of trade deficit, up from 42 percent in 1989 and 33 percent in 1988, and our trade deficit is down because exports are up—imported oil is major piece of trade imbalance.

CHART NO. 4—THE MIDDLE EAST HAS THE OVERWHELMING MAJORITY OF OIL

We can't produce our way to a secure energy future; the Middle East has 660 billion barrels of estimated oil reserves—the U.S. has 25.6 billion barrels; optimistic ANWR forecasts would amount to adding 0.4 percent to world reserves. Our leverage is not as a producer, but as a consumer. We have only 2.8 percent of the world's oil, but we use 25 percent of all oil consumed annually.

CHART NO. 5—ANWR VS. ALTERNATIVES

Drilling the Arctic Refuge will make almost no difference in our long-term production; advanced oil and gas recovery overwhelms even the optimistic forecasts for ANWR production; An aggressive natural gas program would overwhelm ANWR in both the short and long-term—and it would begin weaning us from oil.

CHART NO. 6—THE UNITED STATES USES ENERGY INEFFICIENTLY

We need to use oil—and other energy—more efficiently: The Swiss use energy 3 times more efficiently than we do; The Germans and Japanese are twice as efficient; This chart illustrates the opportunity for efficiency.

CHART NO. 7—COST-EFFECTIVE EFFICIENCY HOLDS ENERGY USE CONSTANT

Cost-effective energy efficiency could hold U.S. energy use virtually constant through 2005; Investments in efficiency creates jobs. 60-80 job are created for each $1 million invested in weatherization. If we took full use of the potential, we could create 6 to 7 million jobs; Efficiency is the best economic, environmental, and energy option at our disposal. Efficiency—in energy and economics—is essential for a competitive economy.

CHART NO. 8—WE ARE USING LESS GAS, MORE OIL

The percentage of our energy coming from oil imports is growing, and that coming from natural gas is shrinking.

CHART NO. 9—WE HAVE LOTS OF GAS TO SUBSTITUTE FOR OIL IMPORTS

We have 70 percent more gas than oil (in terms of the energy content); known reserves would last 50 years at today's rate of use; we can use gas far faster and still have a comfortable future supply; these gas reserve figures are very conservative—low prices have kept us from looking for new gas, and the figures don't count huge volumes of coalbed and tight sands gas.

REFER TO CHART NO. 4—ANWR DOESN'T AFFECT THE BALANCE OF WORLD OIL POWER

If a super giant field is found in ANWR, it would be less than a 0.4 percent addition to world reserves—a bump on the world oil chart.

REFER TO CHART NO. 5—OTHER ALTERNATIVES DWARF ANWR

We can do far more with enhanced production. We can do far more by using natural gas. We can do far more with efficiency (CAFE would yield 2.5 million barrels a day by 2005, and, unlike an oil field, doesn't run out). Opening ANWR is "business as usual." Opening ANWR discredits the commitment to the environment that I believe is essential for an energy policy.

CHART NO. 11—ANWR IS A WINDFALL FOR THE MAJORS, NOT THE U.S.

If there is oil in the Refuge, the oil companies and the State of Alaska are the big winners. The federal government gets little of the take. Billions of dollars of profits for the oil companies. I'm not against profits, but there are many other places to make them, without opening up a major conservation area.

CHART NO. 12—THERE ARE OTHER PLACES FOR THE MAJORS TO GO

The oil companies have just made major new discoveries in the Gulf of Mexico, which they describe as "another Prudhoe Bay." They have major exploration programs in other areas of Alaska and elsewhere in the U.S. and overseas. The only reason for the focus on this area, is that ANWR is the only one they do not have access to.

Mr. President, I thank the distinguished Senator from Montana for yielding me the time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 8 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for up to 8 minutes.

Mr. CONRAD. I thank the Chair, and I thank the distinguished chairman of the committee as well.

Mr. President, this debate is really about the future of energy policy in our country. Why are we here? We are here because this country confronts a crisis. We are today 50 percent dependent on foreign crude oil. The Office of Technology Assessment issued a study earlier this week that said if we fail to act, we may be headed for 75 percent dependence on foreign crude oil.

I say to my colleagues, when do we act in this country? We have just witnessed a war in which 500,000 young Americans put their lives on the line at least in part because of our energy dependence. Eighteen hundred North Dakotans put their lives on the line. Mr. President, the American people have to be asking: When will we debate and pass an energy policy for this country?

I submit to my colleagues and to the American people that now is the time. We cannot wait. Do we have to have another war? Do we have to face a situation in which another 500,000 young Americans put their lives on the line before we act? Clearly, the answer to that must be no. Clearly, the answer must be that it is time for this Congress and the President to come together on an energy policy that advances this country's national interest, that reduces our dependence and that reduces the economic vulnerability of America.

What is it going to take? What is it going to take before we respond? Europe is on the move. We see Japan on the move. The charts shown on this floor show that we in the United States require more energy to produce the same economic output. That means America is more vulnerable. That means America has a competitive disadvantage. And now is the time to respond.

Mr. President, let us review the situation we face today. This chart that the chairman used earlier is at the center of this debate. This chart shows U.S. petroleum consumption from 1980 through the year 2010. This chart shows U.S. petroleum consumption rising dramatically. And, on the other hand, we see U.S. crude oil production for the same period, 1980 through the year 2010. What does it show? It shows U.S. crude oil production dropping dramatically. That is what we face today.

If we look at our situation, we find that imported oil accounts for half of all the oil that we use. As I said, the Office of Technology Assessment told us this week that if we fail to act, we may be headed to 75 percent dependence in the year 2010.

Over the past year, net oil imports accounted for $49 billion of our trade deficit. This chart shows the trade deficits from July 1990 through June 1991. The energy component is in red. More than half of our trade deficit is accounted for by the energy sector. Domestic production virtually collapsed in the 1980's. Rig utilization is only slightly above alltime lows, and U.S. crude oil production is also plummeting. Furthermore, our consumption of oil is increasing.

We also witnessed in the last decade a dismantling of Federal efforts to promote alternative energy technologies. Funding for these programs was slashed 89 percent between 1981 and 1990. Cheap foreign oil undercuts all market attempts to develop alternative fuels. Finally, the Nation's automakers are backsliding on corporate average fuel economy. What do we face in the future?

Mr. President, I think the story is pretty clear. Of our imports, 54 percent came from OPEC countries.

This chart shows proved petroleum reserves, 1990: The Middle East, which is represented by this part of the pie, has 66 percent of these reserves. What could be more clear? This Nation is dependent for our foreign oil on areas that are extremely vulnerable. In the Middle East crude oil can be produced for as little as $2 a barrel. It does not take an economist to tell you that unless we take action, our national security will be threatened. It is patently irresponsible for policymakers to ignore these threats.

I am the first to say, Mr. President, that I am not happy with all the provisions of this bill. I do not know any member of the Energy Committee or the Senate who would not have written this bill somewhat differently given the opportunity. But I must say, this bill is a good start. For those who say this is simply a production bill, I must differ because this is not simply a production bill. It is a very comprehensive proposal. It contains 16 titles.

Title III extends the authority of the Secretary of Transportation to set corporate average fuel economy standards.

I do want to make clear I do not think section 3 is strong enough given our dependence, given the trends, and given our economic vulnerability. We must do better on conservation. Clearly, in the area of fuel economy, we should have a strong section to make this a fully comprehensive bill. But that does not diminish the other sections of the bill; Title IV enhances the use of alternative fuels through requirements on Federal, State, and private fleets. Title V promotes renewable energy through joint ventures and other incentives. Title VI taps the potential decreases in consumption available through increased energy efficiency. Title VII allows drilling in the coastal plain of the Arctic national Wildlife Refuge.

Mr. President, I want to make clear I have opposed that provision absent a strong provision on conservation, particularly fuel efficiency. But, nonetheless, if it was part of a comprehensive package that included fuel efficiency, I would support title VII.

Titles VIII, IX, and X set up a framework for the possible future use of nuclear power.

Mr. President, I ask for 3 additional minutes.

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

Mr. CONRAD. Title XI fosters greater production of natural gas. Title XII prohibits oil and gas leasing on parts of the Outer Continental Shelf until the year 2000, and provides impact aid to States. Title XIII directs R&D efforts on a variety of technologies. Title XIV provides for research and development on coal not only for clean coal technologies but also to promote the use of byproducts. Title XV amends the Public Utility Holding Company Act. Title XVI increases the strategic petroleum reserve.

Mr. President, the Department of Energy estimates that this bill will save 6.1 million barrels of oil a day when fully implemented, and that is without an increase in fuel efficiency that I very much hope we adopt.

My estimates are that the CAFE proposal advanced by Chairman JOHNSTON, myself, and Senator AKAKA will save an additional 1 million barrels a day.

Mr. President, who can claim that this bill is not a substantial contribution to lessening the energy dependence on foreign oil for this country? Who can make that argument seriously on this floor?

This chart shows that oil imports by the year 2010, without S. 1220, will be 14.8 million barrels a day. If we proceed with S. 1220, that number will be dramatically reduced to 8.7 million barrels a day. And again, that does not include the savings that we would achieve from a more stringent policy on fuel efficiency that could save an additional 1 million barrels a day.

I say to my colleagues that the Senate must consider this bill. We should work to improve it, certainly, but we should not kill this bill.

The fundamental question before us today is: Will the Congress debate an energy bill? I know the strong opposition to drilling in Alaska. I have opposed that provision myself unless we have an increase in fuel efficiency to provide a balanced bill. But we should debate ANWR later. We should not prevent this Congress from even considering an energy bill.

Mr. President, there is a question all across America whether or not this Congress can respond to the urgent needs of this country. I hope that with respect to energy we answer in the affirmative.

I thank the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. BAUCUS. Mr. President, I ask unanimous consent that David Sharma, science fellow on assignment to Senator FORD's personal staff, be granted privileges of the floor during the pendency of, and for rollcall votes on, S. 1220, the Energy Security Act of 1991.

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

Who yields time?

Mr. BAUCUS. Mr. President, I yield 7 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada [Mr. BRYAN] is recognized for up to 7 minutes.

Mr. BRYAN. I thank the Chair.

Mr. President, the issue we are debating today affects every aspect of our economy: our international competitiveness, our quality of life, our environment, and indeed ultimately, our ability to survive on the Earth. The type and quantity of energy we use is a crucial element of nearly every activity in which our society is engaged.

The bill before us, S. 1220, largely reflecting the elements of the administration's proposed National Energy Strategy charts the wrong course for our Nation's future. I oppose proceeding to this legislation, not because we do not as a nation need a balanced energy policy—I believe we do.

In that context, Mr. President, let me emphasize that those of us who oppose going forward do so because we are placed in a procedural straitjacket that prevents us from considering separately and independently a bill as to whether or not we should drill in the Arctic National Wildlife Refuge, a bill such as the bill proposed by the Commerce Committee last year and this year represents S. 279 in this session of the Congress, and a bill that can deal with other elements of S. 1220.

My opposition, Mr. President, in going forward is because this bill represents the wrong energy strategy as we look to the dawning of a new century. We can and, indeed, we must do better than recreate and reconstruct the produce and consume mentality that has dominated our energy policy in this country for this century.

During debate over energy policy, many arguments will be advanced in support of and in opposition to various provisions in this complex legislation. But before reaching specifics, I would like to address some observations about energy policy in general, our dependence on oil, and the philosophy that this legislation represents.

Our goal should be a balanced approach—a forward-looking approach—that best protects the interests of consumers, our environment, our national energy security, our technological innovation, our trade balance, and our economy. That, indeed, is a demanding goal but one we must strive to achieve. We should not err for the sake of haste. An outdated energy policy should not be adopted for our future. It cannot meet our future needs.

What we must first recognize, however, is that we cannot produce our way to energy independence using the produce and consume, nonrenewable philosophy of the past.

Unfortunately, the administration's proposal—and many who have taken the floor today and will do so in the coming days ahead—fails to recognize and acknowledge we cannot drill our way out of energy dependence. Whether we open the Arctic National Wildlife Refuge, as some have suggested—indeed this bill proposes—or to drill into the sensitive Outer Continental Shelf, as others have proposed and this bill includes, that will not solve our problems.

The energy policy we adopt should look to, and be designed for, the Nation's needs well into the next century. Indeed, we can seize the opportunity to lead the world in the energy technologies of the next century.

Instead, this legislation is bold with its conventional production industry incentives—oil drilling in the Arctic, development of oil and gas on our sensitive Outer Continental Shelf, and nuclear industry subsidies—but is faint-hearted in its innovation and conservation technologies. The bill has conservation and renewable energy window dressing but its real substance is on conventional energy production. Those are not the policies we need for the next century.

Our experience earlier this year in the Persian Gulf vividly displayed the effect of our ever-growing addiction to and dependence on oil. Fundamentally, this bill does little to end that dependence. We simply cannot produce our way out, even with ANWR and greater off coastal exploration. Furthermore, this bill fails to take the largest step which would reduce our dependence on oil—auto fuel efficiency. Forty percent of the oil that we consume in America is consumed by our automobiles, 63 percent in the transportation section.

This legislation does not, Mr. President, have a meaningful CAFE provision. Rather, it would delegate to an administration which last year and this year and continues to evince hostility to improve full economy standards. That was no CAFE provision at all. That does nothing in terms of easing our energy dependence.

Rather, the Commerce Committee, both last year and this year, has processed a piece of legislation, S. 279, that we seek the opportunity to have acted upon and debated upon on the floor, separate and apart in the form of a separate bill before this body. That legislation, Mr. President, would provide a savings permanently of 2.5 million barrels of oil each and every day and build upon the success of the earlier CAFE legislation adopted by the Congress in 1975, which today, each and every day, benefits American energy policy by saving 2.5 million barrels of oil each and every day. That is the kind of approach that we need.

A meaningful improvement in motor vehicle fuel efficiency, such as proposed by the bill which I introduced along with my colleague from Washington, Mr. GORTON, and which is cosponsored by many Members of this body, is technologically achievable and affordable. It would begin to break the stranglehold oil has on our economy and trade balance.

There are other basic policy shortcomings in the bill which we are being asked to consider as well. Let me cite a few examples:

S. 1220 deregulates important segments of the electric utility industry, without adequate consumer safeguards. Its Public Utility Holding Company Act reform does nothing to ensure energy efficiency or take into consideration environmental implications in the electric generating marketplace. Indeed, this provision would undermine State and local least-cost planning and resource management goals—title XV.

S. 1220 deregulates many hydroelectric projects without insuring environmental protection—title V.

The bill seeks to enhance our reliance on nuclear energy—a technology that at best has proven to be expensive and subject to public distrust—by reducing public input into siting and licensing decisions and streamlining the licensing process—titles VIII, IX, and X.

S. 1220 writes off—at the expense of our already burdened taxpayers, a $10 billion utility uranium enrichment debt and commits billions of taxpayer dollars in support of unproven advanced reactor technologies—title X cleanup costs could exceed $20 billion additional.

This bill encourages expansion of oil and gas development in the Outer Continental Shelf, while many State and local governments oppose such development—title XII.

Other committees with relevant jurisdictions will express their views, and we should note, as well, that much of the legislation under the jurisdiction of other committees bears a distinct connection to our energy policy as well. This is certainly true of the auto fuel efficiency standards, which are within the sole jurisdiction of the Commerce Committee. One of the problems with S. 1220 is that it ignores the work of the Commerce Committee, which reported my legislation, S. 279, in April of this year. S. 1220 substitutes its own provisions, which add nothing to current law and will therefore be completely ineffective in promoting conservation in the use of transportation fuel.

Instead of proceeding to S. 1220, we should let the various committees of jurisdiction contribute to the areas within their expertise.

While S. 1220 is an ambitious effort, it fails to chart the best course for us to follow.

We need to begin the transition from the fossil fuel era—and its attendant global warming, pollution, and dependence on foreign oil cartels. In its place we can turn the page on the next century with a new emphasis on energy efficiency, renewable energy technology, and technological competitiveness.

We need to reconsider the basic philosophy represented by this bill. I oppose proceeding to the bill, and I urge my colleagues to reach for a higher goal.

The U.S. Senate will not deal with a more complex and more difficult issue than setting our Nation's energy policy. The arcane aspects of utility regulation, nuclear safety, automotive technology, and the ecosystem of the Arctic tundra are daunting to experts, no less the public.

Yet, in the final analysis, the American public has a very clear idea of what they want out of an energy policy. They want energy at the lowest possible cost; they want to reduce our dependence on foreign oil; they want safe, clean energy sources that minimize environmental risks. Those reasonable and practical desires should be the guideposts with which we navigate through this intricate maze.

These practical common-sense goals set up an easy test to evaluate this legislation:

Does this bill protect the consumer?

It does not. It protects the financial accounts of the special interests. So-called utility reforms throw out State laws which have forced utilities to look at the least costly methods of generating power. The taxpayer is asked to float the costs of uranium enrichment rather than the utilities, which will gain.

Does this bill reduce our dependence on foreign oil?

It does not. This bill continues our dangerous "Saudi Arabian" oil policy, which will continue to hold us hostage to the perils and pitfalls of the most dangerous region on Earth, the Middle East. The bill's weak automobile fuel economy standards will not guarantee the reduction of a single barrel of oil.

Does this bill encourage safe, environmentally sound energy sources?

It does not. The reduction of public input on nuclear licensing flies in the face of insuring communities safety. Opening up of the Arctic National Wildlife Refuge, while providing a boon to the oil companies, promises a minuscule amount of oil at much environmental risk. And once again, by providing a virtually nonexistent automobile fuel economy standard, this bill does little to reduce greenhouse gases and air pollution.

Failing every reasonable test, this bill must be rejected and a new effort begun. Waiting in the wings is a much more constructive approach, one that emphasizes conservation, that puts the interests of the consumer above that of the oil companies and huge utilities. This country needs an effective energy policy for the future—and a few months spent to formulate a more balanced approach is time well spent.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the Senator from Montana. I am just about running out of time. I am limited.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. I thank the chairman and the managers of the bill, Mr. President.

I want to bring to this debate one little thing. We talk about CAFE standards and we talk about ANWR. I want to relate to you a little incident today which I had on an airplane, flying along, with this man who is probably the upper income of America, environmentally aware, and says we should be doing all of these things for the environment, and all these laws, rules, and regulations.

I asked him if he would be willing to pay four times as much for his water bill after next year than he is now. He said, "Yes, because I believe it would be proper in the environment. I am willing to pay for that." And I believe him. Why? Because he can.

But I take the average man out here making $25,000, $30,000, $40,000, and trying to feed three kids, pay for a home and his education and everything else. He cannot. It costs him his job.

In CAFE standards I have yet to have anybody prove to me under present-day technology, or technology that we could even get into the marketplace, but it takes x amount of energy to move y amount of pounds from point A to point B. It just takes that amount of energy. Now we can work on it, and the technology comes on line and we could lower that. Let us talk about the real world.

In the committee we work very hard, the chairman and the ranking member, on this, who both come from States that are environmentally sensitive. But they know we have to move this country forward.

I agree with my colleague from Colorado that compressed natural gas is very important for transportation fuel; clean coal technology, very important to Montana. We have a clean coal clearinghouse technology, and a technology center there that will continue to operate on how we can take this tremendous amount of energy and make it work.

But let us debate this in the real world where we are today. Can we call it a regulatory recession? Some people are reluctant to say that. But I believe in some cases it really is.

We cannot have it two ways. Trade deficit? Sixty-five percent of the trade deficit is directly related to imported energy; 65 percent. Do you want to take that out of there and see what that does for jobs in this country and the overall general economy? It is a tremendous impact.

Mr. President, this debate should be brought to the floor and all titles debated on this floor on their own merits. But let us do it in the real world.

Mr. President, I rise in strong support of S. 1220, the national energy strategy. S. 1220 has its supporters and its detractors. It does because it is a national energy strategy. Many segments of society are affected by provisions in this bill.

We fought a war in the Middle East to stop aggression and to keep the oil flowing. We are importing nearly 50 percent of the oil we use.

S. 1220 has important provisions on energy conservation; on the use of alternative fuels; on the use of electricity and hydropower.

There are provisions on mass transit and the use of natural gas. Provisions on building efficiency standards energy labeling for windows and lamps and showerheads.

It is a comprehensive bill that addresses a wide variety of energy issues. It is not just a CAFE bill or an ANWR bill. Those provisions are in the bill and they are important but they are not the sum and substance of this legislation.

Everyone faces tradeoffs in life. There are consequences to any decision. If the American people want an energy policy, and I believe that they do, then we must take the responsible course and address all forms of energy savings and domestic energy generation available to us. We cannot say that some answers are just out of bounds. The decisions that we make here affect all of us.

Jobs are on the line. We can deepen the recession we are struggling to get out of or we can help move this country forward. Increasingly we are handing over to foreign interests the keys to our own future. It is the responsible course to move toward increased energy independence and this 493-page 16 title bill takes the responsible course and moves us in that direction.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. BAUCUS. Mr. President, I yield 7 minutes to the distinguished Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. I thank the Senator from Montana.

Mr. President, on his recent book on the Senate, our beloved Senate President pro tempore, the Senator from West Virginia, has written quite eloquently, I think convincingly, about the importance of the right to filibuster here in the U.S. Senate. This is by and large a majoritarian body. The majority rules. But there are times when the rules of the Senate are wise enough to understand that a passion of a moment that may move a majority in one direction may also threaten timeless national values, national resources, national strengths.

That is why our rules create the right to filibuster, why that filibuster can only be stopped by a supermajority of 60; and why I rise today to object to the motion to proceed to the consideration of S. 1220, because in my opinion, if there was ever a timeless resource and value on the line, it is on the line in the Arctic refuge.

Mr. President, let me speak broadly but sincerely about part of what motivates me here. We are visitors to this planet. Each one of us is here for only a temporary period of time. We are lucky to be here. And as such we have certain obligations. Yes, the good Lord created the Earth and those of us who are here on it, and has given us the opportunity to develop the resources of the planet and live to the best of our capacity. But there are limits.

But there are lengths. There are certain places on this Earth that really ought to be left alone, ought to be left as they were when creation began. I think such a place to draw the line is the Arctic refuge in Alaska. Particularly, when one considers how little will be gained, and how much will be lost by intruding on this untouched wilderness and slashing it for a quick and wrong headed oil fix.

Mr. President, I hope that, by tomorrow, when we vote on this cloture motion, enough Members of the Senate will conclude that any energy policy which includes opening up the Arctic National Wildlife Refuge to oil companies is not only unnecssary, it is unacceptable.

Mr. President, our Nation needs a national energy policy, but we need one that is sound and one that does not do lasting damage to values that will be important long after each one of us has left this Earth. It has to recognize that our present reliance on oil is not a gain. It threatens our economic prosperity, our national security, and our environment.

The basis of an energy policy should be to wean us from oil, to diversify our energy base, to develop those energy resources that we in America have in abundance. In the face of that objective, opening up one of the last great wilderness areas in the world to oil drilling is wrong, it is preposterous.

Mr. President, consider for a moment our present situation. The United States is already the second largest producer of oil in the world. Yet, we are still dependent on foreign supplies of oil. We could drill in every backyard in America, Mr. President, and we would still have to import oil to satisfy our present demand. The problem here is not the supply of oil; it is the demand for oil. And we are demanding too much of it.

The United States has only 25.6 billion barrels of proven oil reserves. The Middle East has 660 billion barrels of oil reserves. To think that we are somehow going to even the score by bringing on line the 3.6 billion barrels—the most optimistic estimate the administration has come up with—from the Arctic refuge, is absurd.

The reality is, so long as we are dependent on oil, we are going to be dependent on foreign oil. The Department of Energy assumes that the oil in the Arctic refuge will be consumed in a period of about 15 years. The average production rate would be approximately 330,000 barrels a day. That equals 2 percent of U.S. production.

In fact, the United States oil imports have been rising by more than 2 percent each year, so that even if the administration is correct—and there might be 3.6 billion barrels of oil underneath the Arctic refuge, which no one can say with absolute certainty—it would not even be enough to offset last year's increase in imports, much less reduce our dependence on foreign oil.

Let us look at it one more way. During the Persian Gulf war, which has been referred to here, the combined shortfall of oil due to Iraq and Kuwait going off line was 4 million barrels a day; 330,000 barrels of oil a day from the refuge in Alaska would clearly not have protected us from a disruption in supply, and certainly it would not have saved us from the skyrocketing oil prices that helped to bring our economy into the recession it is in today.

Mr. President, that is the other profoundly baseless argument that is being used to urge drilling in the refuge—that the availability of Arctic Refuge oil would buffer us from oil price shocks. It is simply not true. Oil is priced on a global scale, and the President's own national energy strategy makes this clear.

We are part of a complex and interdependent world oil and refined petroleum products market. Any increase in the world price of oil brought about by any event, at any place, raises the price of U.S. oil, and the price of oil to our allies and trading partners, regardless of how much of that oil is developed and produced here in the United States.

In other words, one can imagine that if we were 100 percent self-sufficient and relied only on domestic sources of oil, the price of gas for our cars, and heating oil for our homes would still have skyrocketed after Iraq invaded Kuwait.

Mr. President, the White House has said to us, as Senator BRYAN has indicated, it will support no increase in fuel economy for cars. And at the same time, the President is threatening to veto this bill if it does not contain the authority to drill in the Arctic Refuge. That simply does not make sense.

Unfortunately, it does make sense to the people who run the big oil companies because, for their investment, they stand a 30-percent chance of hitting the big lotto jackpot, and that is 3.6 billion barrels of oil, which can make them as much as $20 billion to $40 billion of profits in the years ahead. As with any lotto game: If you don't play, you can't win. That is why big oil wants so badly to play.

The problem is, if big oil plays the Arctic Refuge game, we all lose; we lose this great wilderness area and our chance to work together to have a genuinely balanced energy policy.

A yes vote on cloture tomorrow is a vote for oil dependency, and it is a vote to kill the last great Arctic wilderness in North America.

Mr. President, I urge my colleagues to send a very strong message to the proponents of this bill. Tell them that we want a national energy policy which will deliver us a more secure economy, a greater national security, and a healthier environment. Tell them that we know we must reduce our dependence on oil. Tell them we want se-

rious and meaningful measures which will diversify our energy base. Tell them that we do not buy their arguments about Arctic oil freeing us from dependence or protecting us from oil price shocks. Tell them we are not willing to sacrifice a national wildlife refuge and an ecosystem so rare that it was first set aside by President Eisenhower, just so a handful of oil companies might see if there might be enough economically recoverable oil there. We will not send that message to the rest of the world, that the United States of America is so shortsighted and so misguided that we would sacrifice a natural treasure for an artificial fix. If we vote "no" on cloture tomorrow, we can hope that the proponents of this bill remove the Arctic National Wildlife Refuge from this debate—where it in no way belongs—and we can then move to adopt serious and strong energy policy. I urge my colleagues to vote in favor of the energy policy our country needs by voting "no" on cloture tomorrow.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Michigan.

Mr. RIEGLE. Mr. President, like others, I have concern about various areas in this bill. There is one part of the bill that I look upon favorably—I want to talk about that in a minute—and that is with respect to the CAFE treatment that is in the bill that has been reported out of the committee.

But I also have some very serious reservations with respect to the ANWR question, and with respect to nuclear relicensing. I will not get into those at this time. But I do want to raise a direct concern of a matter of jurisdiction, and I do so in my capacity as chairman of the Senate Banking Committee.

I have concerns about title XV of this bill, which would substantially amend the Public Utility Holding Company Act of 1935. This is, as those familiar with it know, a securities statute administered by the Securities and Exchange Commission. This statute is within the exclusive jurisdiction of the Senate Banking Committee.

Back on March 20 of this year, Senator GARN, my ranking member, and I wrote to Senators JOHNSTON and WALLOP to request a joint referral to the Banking Committee on title XV. Unfortunately, we did not receive a response to that letter.

Despite that unresolved matter, I believed that the Banking Committee's responsibility for the Public Utility Holding Company Act required us to act, and we did so by conducting hearings on title XV. Those hearings were held on September 17, October 11, and October 21. I must say that while we learned a lot during those hearings, those three hearings by themselves were not sufficient to give the PUHCA amendments of this bill thorough consideration by the Banking Committee.

They were, however, sufficient to convince me that these amendments involve serious substantive questions. I am inclined to think that these amendments may not be ripe for Senate consideration, until we have examined these questions in still greater depth. So I am reserving, at this moment, final judgment on that issue.

But I want my colleagues to know that title XV of this bill raises serious substantive and jurisdictional concerns that we may have to address directly at a later point down the track here.

With respect to the CAFE provisions, S. 1220 requires the Secretary of Transportation to set CAFE standards for 1996 to 2001, and then from 2002 and beyond.

Under the bill as it has been written, the Secretary is required to set those new standards based upon the "maximum feasible standards"—that is a quote—after considering technologies and economic factors such as the goals of keeping the same size mix and interior volume and performance of 1990 vehicles.

I think that is a reasonable approach, balancing the legitimate political interests of the industry and the limits of technology.

Let me tell you what will happen if we try to mandate on the floor a substantial increase in the CAFE standards. We are going to impose a financial burden, and a technical burden. Let us just talk about the financial burden on the industry that it cannot begin to handle. The domestic auto industry in this country is in very serious financial difficulty. Over the last five quarters, they lost nearly $10 billion. We just had loss figures announced for the most recent quarter, and everyone pays attention to that industry. It shows, yes, massive layoffs and that car sales are way down and the financial condition of the industry has been very severely damaged.

If we were to go to something like the Bryan CAFE standards, which presumably would be offered at some point, the best estimate we have is it would cost $70 billion to go out and change the technology to try to meet those arbitrary standards.

Where is the $70 billion going to come from? Is the Government going to provide that money? No. Not a penny is suggested to be provided by the Government. It is supposed to come out of the private sector, the private capital market. The money is not out there to be gotten; the industry cannot get that money. It ought not to be mandated to try to make that scale of investment chasing these fuel economy improvement standards.

Today, in Japan and Germany, gasoline is about three times as expensive as it is here in the United States. Yet, the fleet averages on fuel economy for cars in those countries are about the same as it is here in the United States. If there was some magic answer to get much higher gasoline mileage out of cars today, you would see that being applied in those areas of the world where gasoline prices, being so much higher than here, create a multi-billion-dollar incentive in the marketplace for that technology to be brought on line. It does not exist. We cannot make it exist by putting a line in a law that says, go out and do it, especially when the price tag is $70 billion and the money is not there to be had.

Also, there are two other tradeoffs with fuel economy. One is vehicle size and weight, which relates directly to safety. Smaller cars are less safe than larger cars. Another direct tradeoff is in the area of fuel emissions in terms of what comes out of the tailpipe of the cars. We have mandated very stringent requirements at the Federal Government level in all three areas—safety, fuel emissions, and mileage standards. But these things are interrelated. You cannot do one without having an impact on the other.

As we have moved in all three areas to make the gains that have already been mandated by law, it has cost a very large amount of money, an enormous amount of cost which, in turn, has to make its way into vehicle cost. Cars become more expensive. People are finding them harder to buy because of many of these Government mandates. We do not need any additional CAFE requirements put into this legislation, and I intend to do everything I can to see to it that no more are added beyond what are in the bill now.

I yield the floor and thank the Senator from Montana.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. I ask the Chair how much time remains on each side?

The PRESIDING OFFICER. The Senator from Montana has 19 minutes and 3 seconds, the Senator from Louisiana has 19 minutes and 47 seconds.

Mr. BAUCUS. I thank the Chair and yield to the majority leader.

Mr. MITCHELL. Mr. President, this is a very important subject on which many Senators have spoken and on which many Senators wish to speak.

Several Senators have inquired as to the schedule for the remainder of the day with the view toward wanting an opportunity to address the subject.

Under the previous order, at 1 p.m. the Senate will return to consideration of the Interior appropriations conference report. As soon as action is completed on that matter, the Senate will return to consideration of the energy bill and there will be an unlimited period for debate thereafter today.

I hope that we can finish the Interior bill in a relatively short time. When we do that, there will be no further roll-

call votes, this being Halloween and several Senators having young children with whom they want to spend the evening. Those Senators who wish to do so will be able to do so if we finish the Interior bill in time. Those Senators who wish to debate this subject will stay here so long as there is any Senator wanting to address the subject. So Senators can be assured there will be plenty of time later today, once we complete action on the Interior appropriation bill, for further debate on this important measure. I thank my colleagues, and I thank especially the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I yield 5 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. Mr. President, I join in urging the Senate not to take up this legislation at this time, so that we can go back to the drawing board and prepare a more satisfactory energy policy for the Nation. The current measure tilts too heavily in favor of the oil and nuclear power industries, and neglects the energy conservation, energy efficiency, alternative energy, and environmental protection stategies that are equally essential to a balanced and responsible policy.

The unbalanced approach of this legislation is what landed us in this vulnerable situation in the first place. Nuclear waste, global warming, coastal destruction, acid rain—the problems go on and on. Where is the efficiency that our constituents called for during each and every one of the Department of Energy's field hearings on the national energy strategy? Where is the major effort needed to bring more solar and wind power into the electricity grid? Where is the significant improvement in the fuel efficiency of our automobiles? Do not bother looking in this measure, because it is not there.

Two of the most objectionable provisions in this legislation are the proposal to start drilling for oil in the last protected ecosystem of this kind in our hemisphere—the Arctic National Wildlife Refuge—and the incentives for nuclear power. ANWR is an area of spectacular beauty. It supports a wide array of polar bears, caribou, wolves, falcons, owls, and other wildlife, as well as an indigenous tribe that is particularly dependent on the caribou herds. We should preserve this region as a unique link in the ecological chain and as a priceless environmental resource for future generations, not turn it into an oilfield.

With respect to nuclear power, the sweeping changes in the licensing process are designed to make it easier to license new nuclear plants, and to restrict public participation in the process. The bill would severely limit the opportunity for needed inquiries on health and safety issues. Once the first stage of review is over, it would be very difficult to obtain a hearing on new issues that arise, such as emergency evaluation plans, new seismic or environmental data, or accidents that may have occurred at similar plants. The bill would also deprive citizens of access to documents that could help them make their case about problems that have arisen.

In recent years, New England has had extensive experience with the licensing of nuclear powerplants, evacuation plans, health issues, and other safety requirements. We have seen first-hand how important these requirements are, and how quick the administration has been to undercut them. The one-stop shopping approach to nuclear licensing makes a mockery of these profoundly important decisions for communities that will live in the shadow of these plants. Often, there will be no public record, no right to subpoena documents, no right to know whether a nuclear facility—at the critical stage before it begins operation—poses a threat to the health and safety of those who live beside it.

The nuclear lobbyists tell us that there would still be an opportunity for a public hearing on significant new issues before a plant begins operating. What they are referring to is a petition process that already exists, which has granted just 2 of the 321 hearings requested over the last decade.

In addition to restricting public participation in the process, the industry has successfully pushed for more subsidies from the taxpayers. The proposal gives the Department of Energy a blank check to encourage the development of a new generation of so-called advanced nuclear reactors. Since private investors are unlikely to accept the risk, the bill suggests financing 50 percent of the first such reactor with taxpayer money. In addition, the proposal writes off approximately $10 billion in debt owed the U.S. Treasury for uranium enrichment services. As the National Taxpayers Union has said, this legislation calls for an energy policy "based on taxpayer subsidies to energy industry special interests."

Like the nuclear titles, the Outer Continental Shelf management provisions also contain taxpayer financing proposals and one-stop shopping for the industry. Currently, when an oil company purchases an offshore oil lease, it has priority over other firms in exploration and development. But permission to develop is not granted until after three further stages of review. This bill directs the administration to craft new procedures that would do away with further review, and make it more likely that a lease will automatically carry with it full exploration and development rights.

Even worse, the bill would encourage drilling in Outer Continental Shelf areas that have for years received special congressional protection, in recognition of the unique and fragile environment they support. Even President Bush has agreed that it would be unwise to pursue oil and gas development in these areas over the next several years. Yet, the bill would require the President to reopen the question of oil and gas development in all areas that are currently under congressional or administrative moratoria. In Massachusetts, we have worked hard to protect the Georges Bank area that is essential to the survival of the fishing industry, and it would be a mistake for the Senate to undo these protections.

Another troubling aspect of this bill is that it would redirect OCS royalties and fees, which currently go into general revenues of the Federal Treasury, and use them to create a fund to encourage States and communities to sacrifice their coasts to massive oil development.

The bill shows further disregard for the environment by exempting hydroelectric projects smaller than 5 megawatts from Federal licensing requirements. It is the licensing process that triggers review under laws such as the Endangered Species Act and National Environmental Policy Act. If a local project is not required to get a Federal license, the local environment can be irreparably harmed by thoughtless and unnecessary action.

Next, the bill would undermine significant parts of last year's Clean Air Act, by leading to large localized increases in the very pollutants that the act is designed to control. The sulfur and nitrogen oxides that cause acid rain and smog are dangerous pollutants that urgently need reduction as a matter of public health as well as environmental concern. Yet the bill would significantly weaken the Clean Air Act by undoing its requirement that refurbished powerplants control these pollutants to the same level as new plants.

Supporters of this legislation cite a new OTA report on the Nation's oil vulnerability as proof of the need for action. Certainly, the report helps us recognize the dangerous situation we are in, as we become more and more dependent on foreign oil supplies.

But the OTA report is hardly support for this legislation. One of the primary reasons we are now less prepared to cope with foreign oil supply disruptions than we were several years ago is that, over the past decade, we largely abandoned our national efforts to develop renewable fuel sources and undertake serious conservation measures.

It is clear that we must address our increasing energy needs and the related national security dangers. But we do not have to do so at the expense of the environment and public health. We need to redouble our efforts on energy efficiency and energy conservation,

rather than rushing into irresponsible new incentives for energy production.

What we need is stronger CAFE standards for vehicles and stronger standards in the building and industrial sectors. From 1995 to 2010, we can save 1 million barrels of oil a day with realistic efficiency standards for industrial motors, at a saving of $7 billion for businesses. Over the same period, we can save nearly 3 million barrels of oil a day with strong standards for lighting products, at a saving of $30 billion for consumers. To enact mandatory standards like this is not micromanagement by Congress. It is the sort of national energy policy we need—good for the economy, good for the environment, good for public health, and good for national security.

Now, some would argue that Congress should leave the details of standard setting to the experts in the agencies. But the administration is unlikely to pursue these important changes. Their track record should give us pause. The Secretary of Energy proposed many worthwhile efficiency measures last year, but these were ultimately dropped from the administration's national energy proposal, under pressure from the White House. Let us also recall the highly successful law enacted in recent years that established efficiency standards for major home appliances. We had to override a veto by President Reagan to get that bill enacted.

Sacrificing the Arctic Refuge and key areas of the Outer Continental Shelf is not the solution to our excessive dependence on oil imports. As the OTA's report explicitly states, even if the Arctic and frontier offshore areas "were opened to exploration and commercial quantities of oil or gas were found, it would be of little relevance in responding to a significant oil import disruption within the next decade." OTA found much greater promise in tapping unrecovered oil in existing fields. The Department of Energy estimates that there are 76 billion barrels of oil in existing wells in the United States which could be recovered without destroying irreplaceable areas like the Arctic.

On the issue of CAFE standards, all of us in the Senate owe a debt of gratitude to Senator BRYAN for the excellent and persuasive analyses he has provided. No one should be misled by the nationwide lobbying campaign designed to block his sensible proposal to achieve large energy savings through substantial increases in automobile fuel efficiency. As Honda announced recently, the new lean burn technology will raise the Civic's fuel economy significantly above last year's model—to 59.5 miles per gallon—and the new model will actually be larger than the old.

There has been much discussion about vehicle size and the purported safety problems associated with higher miles a gallon. But Honda's example helps illustrate the point that carmakers will not have to reduce their fleet size to meet the Bryan standards.

What may be affected is the current alarming trend to produce so-called superhorsepower cars, capable of going from 0 to 60 miles per hour in a few seconds, or reaching speeds well in excess of 100 miles per hour. To the extent that more stringent CAFE standards discourage automakers from building more of these dangerous cars, the Bryan bill will help make cars more safe, not less.

In sum, I recognize that many months of work have gone into this bill. But overall, these proposals would take this country in the wrong direction, to a less satisfactory energy future. That is not the direction America ought to take, and I urge my colleagues to vote against cloture on the motion to proceed.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. ROTH. Mr. President, I rise today to convey my concerns with S. 1220, the National Energy Security Act, and urge my colleagues to vote against the motion to proceed with this legislation.

Mr. President, I do not make it a habit of voting against the efforts of my colleagues on a motion to proceed to legislation, however, in this case I have decided to make an exception. I would like to take this opportunity, in the short time that we have, to outline some of my major concerns with the bill. I hope that these provisions and the reasons for this procedural challenge, as mentioned by my colleagues who have similar concerns, can be redrafted in a more balanced and equitable manner.

One of my major objections with proceeding with this bill is the provision which is related to opening up the coastal plain of the Arctic Refuge to oil and gas development.

Mr. President, I have heard a lot of discussion about how good it would be for our economy if the refuge is drilled. I have also heard a lot of discussion about the revenues to private industry that would result if the area is opened for drilling. I have also heard a lot about the incredible wilderness qualities of the coastal plain.

As stated in the 1002 report, this is the only conservation system that protects in an undisturbed condition a complete spectrum of the Arctic ecosystem in North America. I often wonder which is more important to those who want such drilling to take place.

S. 1220 specifies that the receipts from the leasing of the coastal plain be evenly split between the Federal Government and the State of Alaska. It authorizes the use of the receipts from the Arctic Refuge for new spending programs on energy projects. This is an interesting scenario especially in light of the CBO analysis which states that it considers these lease sales to be asset sales within the definition of the Budget Enforcement Act of 1990, on the basis that both the exclusive right to explore for and extract minerals, and the minerals themselves, are Federal assets. CBO believes that the proposed leases are asset sales, and are thus ineligible to be counted as a deficit reduction.

Section 250(c) 21 of the Balanced Budget and Emergency Deficit Control Act of 1985, defines an asset sale as: "the sale to the public of any asset, whether physical of financial, owned in whole or in part by the United States." Section 257 (e) of that act goes on to state that receipts generated from the sale of such assets cannot be counted for the purposes of deficit reduction.

Despite OMB's assertion, it seems to me clear, Mr. President, that any spending which results from this provision in the bill simply adds to our Federal deficit under the budget rules we have established.

Mr. President, CBO estimates that the costs of the bill will be $9 billion over the 5-year period of the bill. In these hard times, I find it disheartening to see us spend $9 billion in order to harm one of the Nations most precious wildlife refuges. There are better alternatives than this.

To my colleagues, I say that you can vote to support protecting this incredible area and the wealth of wildlife that it contains for this and future generations. But if you vote against that protection, do not be misled: the Federal Government may get as little as 10 percent of these revenues as Alaska will presumably challenge in court the current revenue sharing scenario. And there is no guarantee at all that even a dime of the revenues would help any of the worthy programs that supporters of drilling claim. Even more to the point, if you vote to open the refuge, you are shooting in the dark. We still do not have the full analysis of all the alternatives including other resources that we asked for back in 1980.

Mr. President, we keep hearing about the fact that we are totally dependent upon oil from the Middle East. The assumption that this argument portrays is that opening up the coastal plain would reduce this dependence. This is like saying that a great corn yield in a small State will reduce the world price of corn.

Mr. President, as Jessica Matthews said in recent editorial in the Post:

If the coastal plain holds the expected amount of oil, it will be a major find but a

minor amount of oil. It would be of major significance to U.S. Producers, but of minor importance to the country.

Mr. President, we cannot buy our way out of Middle Eastern oil supplies by opening up the coastal plain. We must make better use of current existing supplies, conservation, and alternative energy. We must not open up the only conservation system that protects, in an undisturbed condition, a complete spectrum of the Arctic ecosystem in North America for a short supply of oil.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD, Mr. President, today, the U.S. Senate has begun a debate over possibly the most important piece of legislation before the Congress in 1991—the national energy strategy. Well before the tragic events in the Middle East underscored the very real dangers of our enormous and still growing dependence on imported oil, that dependence became the source of great concern for me and many of my colleagues.

At the risk of sounding trite, this Nation's energy policies have been running on empty for quite some time now. For the past decade the motto of U.S. energy policy has been, "Don't do today what you can put off until tomorrow." Since the early 1980's we as a nation have gobbled up energy like it was Halloween candy. We have consumed and consumed, and thought virtually nothing of the consequences—until the crisis in the Persian Gulf. That crisis served to underscore the critical importance of reducing this Nation's dependence on foreign sources of petroleum products and on fossil fuels in general.

Reducing this dependence has resulted not only in a question of higher gasoline and heating oil prices, but it has translated into something infinitely more important and personal—the lives of Americans. Three hundred seventy American service personnel lost their lives in the Persian Gulf war in defense of United States access to Kuwaiti oil—a price far to high to pay for a decade of over-consumption and dependence upon petroleum products.

Indeed, the title of the legislation now before us, the National Energy Security Act of 1991 tells the true tale—that the development of a well-balanced national energy package equals the enhancement of our national security. A truly balanced national energy strategy will move our Nation away from its dependence on oil—not just imported oil, but all oil. The prospect of future wars and the loss of human life over this resource must be reduced and eventually eliminated.

The legislation before us now, Mr. President, is an attempt to enhance our national security through the development of a balanced national energy package. S. 1220, however, is not the ideal package I had envisioned as a final national energy strategy. The 16 hearings and 12-or-so markups held on S. 1220 in the Energy and Natural Resources Committee were not enough. If a vote on final passage of this legislation as it stands today were held right now, my vote would be questionable. Nonetheless, I worked diligently with my colleagues in Energy Committee to try to craft a package which balanced energy production with energy efficiency and renewable energy measures, and I plan to work just as hard on the floor to further enhance this bill—much more needs to be done.

For example—a substantial, defensible increase in corporate average fuel economy standards, enhancement of alternative fuels development, increased access to renewable energy technologies, increased efficiency at existing hydroelectric projects—all are priorities I feel must be improved during debate of this legislation.

The task as I see it is quite clear. The security of America and of American lives everywhere depends upon our action or inaction on this legislation. America's future depends on the stewardship of this Nation's energy resources and our unwavering commitment to a balanced energy plan. The U.S. Senate has before it the golden opportunity to change the course of American energy use from a mentality of consume, consume, consume, to one which balances conservation, energy efficiency, and renewable energy development with the wise development of domestic energy resources.

Mr. President, this legislation needs to be debated, and I will support cloture on the motion to proceed to S. 1220.

Mr. President, I come to the floor to speak on behalf of the Energy Committee, as a member of that committee who has not quite made up his mind as to how I would vote if that bill we reported out of that committee were being read for the third time today.

I am not sure because there are things in that bill that I do not agree with. I want to see the renewable energy programs enhanced, as we did in that committee markup. I want to see conservation programs increased and incentives for such conservation programs. I am not happy with the so-called CAFE proposition in this bill. I do not believe that we should penalize the progressives in the automobile industry, as we would be doing if we followed the particular formula in this bill. There are a number of things that I want to see improved in this bill.

But, Mr. President, I cannot conceive of the fact that people will stand on this floor today and say, put off the national energy program or policy until some other time. We should have learned in the seventies that we should have a national energy program, reducing our dependency upon foreign imports. At that time we were importing 38 percent of our consumption and today that has risen to 50 percent. "Put off until some other day a national energy policy." Are we afraid to debate the issues, or are we just disinterested?

Let me contrast that to what happened on this floor a few months ago.

The administration said there is a little Czechoslovakia-like country over there in the Middle East that is being invaded, and we have to stand up today or we will have another Munich or another example of what we experienced before World War II. And, Mr. President, the Republicans on one side and the Democrats on the other side competed on a question of how we can all mobilize ourselves to go to war.

Let me tell you, we went to war only because of oil. We, of course, all give accolades for the precision with which the military was called upon to execute that action. Nevertheless, the thing that welded the allies together was oil. And yet today, this same body says, well, we are not interested in getting a national energy policy until we get a bill out of the energy committee that we can agree with in every title.

There were over 16 hearings and a dozen markup sessions. That committee has worked diligently under the leadership of Senator JOHNSTON and Senator WALLOP. And, as I say, I think we ought to take that bill and work the will of the Senate, debate the issues. I hope we have not reached a point in history when they were afraid to listen to Gallileo because he might say something that contradicted their assumptions. I do not understand this point.

Let me say that when we were willing to vote on the Persian Gulf war—and remember the Democratic resolution could have put us into war sooner than the Republicans—Mr. Bush and the Republicans had a date specific. The Democrats' resolution to go to war was dependent upon certain circumstances, circumstances that took place even the following day, and that is, "if American troops are put into danger." And at that time the Iraqi troops moved up the border.

I am not saying that I am the only right person. I was the only Senator who voted against both of those resolutions for war. And how easy we could mobilize the Senate to go to war to protect oil dependency, and now we have an opportunity to put this Senate on record of taking the first major step for a national energy policy that will reduce our dependency on imported oil, enhance conservation, enhance the renewable sources and get a comprehensive energy package. I am appalled

that people do not want to move on this great national need of a national energy policy.

I commend my leadership of the Energy and Natural Resources Committee. They have done an extraordinary job and I think we ought to at least take it from that base and work the will of the Senate on these issues, whether we agree or disagree at this particular moment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield 5 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. I thank the Senator from Louisiana. I am pleased to be able to join this colloquy now.

I have heard statements here on the floor from people saying American industry does not have the capital to do the things that would be required by this bill. Maybe we should ask the question, where are America's dollars going? Where is the outflow of our dollars? They are going to the treasuries and banks of the Middle East. The petrodollar era is here again.

We heard about the petrodollar era in the sixties and the seventies, when we went from about 15 to 30 percent in terms of our reliance upon imported oil. Many people have been asleep. They have not been watching the increase in dependence upon foreign oil. We now import 50 percent of our oil. We have no way of getting those dollars back unless we find some way to compete with the other manufacturing and agriculture areas of the world. Unless we increase the sale of our agriculture products and increase the sale of our manufactured products, we'll never bring those dollars back home.

If people want to look at fiscal extremism, they ought to look at what has just been stated on the floor. It has just been stated that oil that is in the ground that has not been discovered is an asset that belongs to the U.S. Government and if it is discovered and sold it is the sale of something that we cannot count as income to the Federal Treasury and any payment of the revenues paid to the State should be considered a loss to the Federal Government. We had that debate once before and the Budget Committee agreed with us that that is a totally fallacious argument.

But the reason I am here today is to say we should not have a filibuster against a bipartisan energy bill. I am surprised so many people are so extremist in their opposition to certain provisions of this bill that they would even block the consideration of developing a new energy policy for the United States. These are the same people that scream at us normally against filibusters. What is this?

Am I hearing right? Are the people that have been lacing into me for years for objecting to a motion to proceed—are they suddenly changing their minds? Are we going to have a new policy now coming from the extreme environmental people in the Senate and the Congress saying we are unwilling even to debate the subject of looking for new oil?

During the Arab embargo in 1973, we imported 36 percent of our oil. There is no question that this bill affects my State and affects it very vitally. We have over 750 miles of Arctic coast along the Arctic Ocean. It is all pristine. It is pristine because it remains as God made it. There are only four places along more than 750 miles of Arctic coastline that have been developed: Three are Native villages, and one is Prudhoe Bay. There is not one other area affected by man. And somehow or other they tell us that one portion that is covered by the 1½ million acres is so pristine we should not disturb it. What do they plan for the rest of the 750 miles?

The people who live in that area, the Eskimos, have come to us and said please help us bring about this development. We need jobs. We need income. We want to send our kids to colleges just like you do. We have no chance of having a cash economy unless our resources are developed.

They live between the Naval Petroleum Reserve No. 4, 25 million acres set aside in western Alaska by President Harding after the Teapot Dome scandal and on the east the huge Arctic National Wildlife Refuge, 18 million acres, and only 1½ million acres of it left open to oil and gas exploration.

This Congress in 1980 passed the Alaska National Interest Lands Conservation Act and, in doing so, it set aside over 100 million acres of land. Only 1.5 million acres of that was left available for oil and gas exploration and development. It was open for oil and gas exploration and development before that act and it remains available now.

I cannot understand an opposition to a balanced bill. We have come out in support of conservation. We believe we can have a new look at our nuclear policy. We have a proposal here, as I said, that affects my State vitally. But it creates 750,000 jobs nationwide and it should be voted on. We should be having some active debate on the floor, not be questioning whether we should take up a vital bill like this.

The PRESIDING OFFICER. Who yields time? The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time is remaining?

The PRESIDING OFFICER. There are 6 minutes and 40 seconds remaining to the Senator from Montana.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I have heard so many untruths and so many palpable assumptions, in 1 minute it is hard to do it. But the one untruth of all I heard was the Senator from Minnesota said that nobody was for this bill.

Mr. President, I ask unanimous consent that a list of the individuals and agencies of America, of States, of businesses, of State organizations, former Presidents, Secretaries of Defense, National Security Advisers, and others, be printed in the RECORD together with supporting documentation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NES SUPPORT

OCTOBER 31, 1991.

President Jimmy Carter.
President Gerald Ford.
Hon. Dick Cheney, Secretary of Defense.
Hon. William K. Reilly, Administrator, Environmental Protection Agency.
Hon. Caspar W. Weinberger, former Secretary of Defense.
Hon. Richard V. Allen, former National Security Advisor.
AFL–CIO Building and Construction Trades Department.
AFL–CIO Marine Engineers' Beneficial Association.
AFL–CIO Maritime Trades Department.
Air-Conditioning and Refrigeration Institute.
Air-Cooled Heat Exchanger Manufacturers Association.
Air Transport Association of America.
Alaska, State of.
Aluminum Association, The.
Alaska, Coalition for American Energy Security.
Allied-Signal Inc.
Amax Coal Industries, Inc.
American Association of Crop Insurers.
American Boiler Manufacturers Association.
American Cement Alliance.
American Coalition for Ethanol.
American Consulting Engineers Council.
American Electronics Association.
American Farm Bureau Federation.
American Foundrymen's Society.
American Gas Association.
American Gear Manufacturers Association.
American Hardware Manufacturers Association.
American Iron and Steel Institute.
American Legion.
American Lighting Association.
American Maritime Congress.
American Mining Congress.
American Nuclear Energy Council.
American Paper Institute.
American Petroleum Institute.
American Pipe Fittings Association, Inc.
American Recreation Coalition.
American Soybean Association.
American Society of Civil Engineers.
American Trucking Association.
ARCO.
Aristech Chemical Co.
Arizona Association of Industries.
Arizona Public Service Co.
Arkansas State Chamber of Commerce.
Armstrong World Industries.
Asea Brown Boveri Inc.
Ash Grove Cement Co.

Associated Builders and Contractors, Inc.
Associated General Contractors of America.
Associated Industries of Florida.
Associated Industries of Massachusetts.
Associated Industries of Missouri.
Associated Oregon Industries.
Associated of Commerce and Industry of New Mexico.
Baker Hughes MWD.
Bakery Equipment Manufacturers Association.
Baltimore Gas & Electric Co.
Bayless, Boland, Bates & Madigan, Inc.
Bechtel Group Inc.
Bob Lawrence & Associates.
Book Manufacturers' Association, Inc.
Burlington Resources.
Business & Industry Assoc. of New Hampshire.
Business and Institutional Furniture Manufacturers Assoc.
Business Council of Alabama.
California Chamber of Commerce.
CENEX.
CertainTeed Corporation.
Chamber of Commerce of United States of America.
Chemical Manufacturers Association.
Chevron Chemical Co.
Chevron Companies, The
Chocolate Manufacturers Association of the U.S.A.
CH2M HILL.
CIPCA.
Citizens for the Environment Action Fund.
Citizens for a Sound Economy.
Clean Coal Technology Coalition.
Coalition to Oppose Energy Taxes.
Coalition of Northeastern Governors.
Coastal Corporation, The
Columbia Gas System.
Composite Can and Tube Institute.
Compressed Gas Association.
Connecticut Business and Industry Association.
Consolidated Natural Gas Company.
Construction Industry Manufacturers Association.
Consumers Power Co.
Copper and Brass Fabricators Council, Inc.
Council of Industrial Boiler Owners.
Delaware State Chamber of Commerce.
Delta Airlines.
Dominion Resources, Inc.
Duke Power Company.
Dupont.
Eastman Kodak Co.
Eaton Corporation.
Electricity Consumers Resource Council.
Electronic Industries Association.
Electronic Transportation Coalition.
Energy Council, The (formerly SW Energy Council).
ENRON Corporation.
ENRON Gas Processing Company.
Entergy Corporation.
Envelope Manufacturers Association of America.
Equipment Manufacturers Institute.
Fire and Emergency Manufacturers and Services Assoc.
Florida Citrus Mutual.
Florida Gas Transmission Co. (ENRON).
Florida Petroleum Council.
Florida Phosphate Council.
Florida Sugar Cane League.
Fluor Corporation.
Forging Industry Association.
Gas Appliance Manufacturers Association.
Gas Research Institute.
General Mills.
General Public Utilities.
Georgia-Pacific, Inc.
Grace, W.R. & Co.
Gypsum Association
Halliburton Company
Hardwood Plywood Manufacturers Association
Highway Users Federation
Hoechst Celanese Corporation
Independent Petroleum Association of America
Independent Power Producers Working Group.
Indiana Manufacturers Association, Inc.
Indiana State Chamber of Commerce.
Industrial Energy Users Forum.
Industrial Safety Equipment Association.
Industry and Commerce Association of South Dakota.
Institute for Interconnecting and Packaging Elec. Circuits.
Institute of Electrical and Electronics Engineers, Inc.
Insulation Contractors Association of America.
Interstate Natural Gas Assoc. of America.
Iowa Assoc. of Business and Industry.
Iowa, Governor of, Hon. Terry E. Branstad.
Kaiser Aluminum and Chemical.
Kansas Chamber of Commerce and Industry.
Kerr-McGee Corporation.
Kitchen Cabinet Manufacturers Assoc.
K-Fuel Partnership.
KN Energy.
Knauf Fiber Glass.
Louisiana Assoc. of Business and Industry.
LP Gas Clean Fuels Coalition.
Lukens Inc.
Maine Chamber of Commerce and Industry.
Maine Public Utilities Commission.
Manville Building Products Corporation.
Martin Marietta Corporation.
Maryland Chamber of Commerce.
MDU Resources Group, Inc.
Metal Treating Institute.
Michigan Manufacturers Assoc.
Mineral Insulation Manufacturers Association.
Morrison Knudsen Corporation.
National Assoc. of Band Instrument Manufacturers.
National Assoc. of Counties.
National Assoc. of Food Equipment Manufacturers.
National Association of Home Builders of the U.S.
National Assoc. of Hosiery Manufacturers.
National Assoc. of Manufacturers.
National Assoc. of Photographic Manufacturers.
National Association of Wheat Growers.
National Cattlemen's Association.
National Coal Assoc.
National Confectioners Assoc. of the U.S.A.
National Conference of State Legislatures.
National Electrical Contractors Association.
National Electrical Manufacturers Assoc.
National Farmers Union.
National Fluid Power Assoc.
National Grange.
National Governors' Association.
National Housewares Manufacturers Assoc.
National Independent Energy Producers.
National Insulation and Abatement Contractors.
National Knitwear Manufacturers Association.
National League of Cities.
National Marine Engineers' Beneficial Association.
National Ocean Industries Assoc.
National Petroleum Refiners Association.
National Pork Producers Council.
National Rural Electric Cooperative Assoc.
National Screw Machine Products Assoc.
National Society of Professional Engineer.
National Steel Corporation.
Natural Gas Alliance for the Generation of Electricity.
Natural Gas Supply Assoc.
Natural Gas Vehicle Coalition.
Nebraska Chamber of Commerce and Industry.
The New England Council Inc.
New York State Electric & Gas Corporation.
Non-Ferrous Founders' Society.
Northern States Power Co.
Occidental Oil and Gas Corporation.
Ohio Manufacturers Assoc.
Orange and Rockland Utilities.
Oryx Energy Co.
Owens-Corning Fiberglass Corporation.
Pacific Gas & Electric Company.
Panhandle Eastern Corporation.
PCPI—The Transformer Assoc.
Petrochemical Energy Group.
Petroleum Marketers Association of America.
Phillips Petroleum Co.
Portland Cement Assoc.
Portland General Electric Co.
Polyisocyanurate Insulation Manufacturers Assoc.
PPG Industries Inc.
Power Tool Institute, Inc.
Powers Petroleum Consultants, Inc.
Process Gas Consumers Group.
PSI Energy, Inc.
Public Lands Council.
Puerto Rico Manufacturers Assoc.
PUHCA Reform Coordinating Committee.
Quaker State Corporation.
Quantum Chemical Co.
RJR Nabisco.
Rubber Manufacturers Association.
Sheet Metal & Air Conditioning Contractors Nat'l. Assoc., Inc.
Siemens Corporation.
Small Motor Manufacturers Assoc.
Southeast Iowa Industrial Coalition.
Society of the Plastics Industries, Inc.
Southern California Gas Company.
Southern Company Services, Inc.
Southern States Energy Board.
Southwest Energy Council.
Sporting Goods Manufacturers Assoc.
Stockwell Rubber Company.
Sumner Rider & Associates.
Sun Company, Inc.
Synthetic Organic Chemical Manufacturers Assoc.
Telecommunications Industry Association.
Texaco Inc.
TIMA, Inc.
Tobacco Associates.
Toy Manufacturers Assoc. of America.
Union Carbide Corporation.
Union Pacific Resources.
U.S. Beet Sugar Association.
U.S. Conference of Mayors.
USX Corporation.
Utility Working Group.
Valley Queen Cheese Factory, Inc.
Valve Manufacturers Association.
Vista Chemical Co.
Washington International Energy Group.
Waterbed Manufacturers Association.
West Virginia Manufacturers Assoc.
Western Governors' Assoc.
Western Legislative Conference.
Westinghouse Electric Corporation.
Wisconsin Manufacturers & Commerce.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, DC, October 16, 1991.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR MALCOLM: As the Senate considers S. 1220, the National Energy Security Act of

1991, I want to let you know of my strong support for swift enactment of this important legislation and my opposition to any attempt to filibuster the bill. S. 1220 contains many sound provisions which build on the base we established last year in the Clean Air Act Amendments and provides the framework for a reliable supply of environmentally sound energy sources, the underpinning of any healthy economy.

S. 1220 establishes a balanced and comprehensive approach to making the U.S. less dependent on unstable supplies of imported energy. The bill would promote development of alternative sources of energy, encourage energy conservation in the transportation and industrial sectors and increase domestic production of conventional energy sources, in part through the ecologically sound development of a small portion of the Arctic National Wildlife Refuge. Finally, the measure would accelerate the development of advanced technologies which could be used domestically and worldwide to minimize the effects of energy production and use on the natural environment.

S. 1220 could accomplish this and more, putting the United States on the road to a sound, environmentally responsible energy policy. Considered as a whole, this legislation can advance environmental protection and improve rational development, diversification and use of energy and stimulate innovation and needed technological breakthroughs. I urge its speedy passage.

Sincerely yours,

WILLIAM K. REILLY.

SECRETARY OF DEFENSE,
Washington, D.C., October 11, 1991.

Hon. MALCOLM WALLOP,
Ranking Republican, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MALCOLM: The Senate will soon consider the National Energy Security Act of 1991 (S. 1220) originated by your Committee. I strongly support Senate passage of the legislation to achieve a balanced, realistic, and comprehensive approach to the Nation's energy needs. America's development, exploitation, and conservation of its vast energy resources in an environmentally sound and economically manner is a top national priority.

The Department of Defense is one of America's major consumers of energy. The effective use of the armed fores depends upon ready access to the energy needed to fuel ships, aircraft, facilities and the other fuel-consuming items that are part of a modern national defense. Our experience in the liberation of Kuwait during Operation DESERT STORM demonstrated the importance of energy to the effective use of our armed forces. Increasing America's energy self-reliance will improve the Department of Defense's ability to rely on America's energy sources in time of need. Implementation of S. 1220 will reduce America's dependence on foreign energy sources, thereby strengthening the Nation's security.

I urge the Senate to pass S. 1220, with the modifications requested by the Administration. The legislation will ensure that America has the energy supplies it needs for the twenty-first century. Your continued leadership in the effort to make America energy-independent is greatly respected and appreciated.

Sincerely,

DICK CHENEY.

SEPTEMBER 30, 1991.

Hon. J. BENNETT JOHNSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: During the 1970's, for the first time in history, we confronted a national energy crisis. Instability of supply and rising costs forced us to understand that sound energy policies are critical to the strengths of this nation. Congress and the Executive Branch began working together to develop responsible energy policies, and much was accomplished.

It was during our Administrations that Congress created the Strategic Petroleum Reserve, imposed automobile efficiency standards, set the stage for deregulating natural gas, authorized a host of conservation initiatives and created the Department of Energy.

While we take pride in these and other achievements in the energy field, we also recognize that much remains to be done. A national energy policy cannot be created overnight by one Act of Congress or one Executive Order. Nor can we fashion policy only in response to crisis. Despite past progress, we are still not making the best use of our own energy resources and we continue to waste too much energy. We must do more to develop new energy sources and to ensure that we meet our energy needs through environmentally sound practices.

The need for new initiatives on energy policy is dramatized by our growing dependence on foreign oil, a dependence which jeopardizes our economy and endangers our security.

With the lessons of the Persian Gulf war fresh at hand, now is the time for Congress to address the nation's energy needs. Comprehensive energy legislation such as that pending before the Congress, provides an opportunity to continue progress toward a national energy policy. This opportunity should not be missed.

We urge your prompt consideration of this matter.

JIMMY CARTER.
GERALD R. FORD.

OFFICE OF THE GOVERNOR,
Des Moines, IA, October 29, 1991.

Hon. TOM HARKIN,
Hart Senate Office Building, Washington, DC.

DEAR TOM: You will soon consider S.1220, the National Security Act of 1991, which contains several titles of interest to the State of Iowa.

Legislation titles that deal with speeding up FERC's consideration of interstate pipeline construction, increasing energy efficiency, amending the Public Utility Holding Company Act (PUHCA) of 1935 to facilitate development of independent power, and requiring greater use of alternative fuels will all serve to benefit Iowa's industries, including agriculture, trucking, travel, tourism and manufacturing.

As you are aware, Iowa imports 98% of its energy, which makes our citizens vulnerable to possible energy supply shortages and high costs. Our goals are to create greater diversity in Iowa's energy supply and demand chains, increase competition and improve efficiency in the electric industry.

I understand that there are several possible amendments to the bill, and I hope that, when the debate is concluded, S. 1220 will contain those items of greatest interest to Iowa.

Your consideration is deeply appreciated.

Sincerely,

TERRY E. BRANSTAD.
Governor.

OFFICE OF THE GOVERNOR,
Des Moines, IA, October 29, 1991.

Hon. CHARLES E. GRASSLEY,
Hart Senate Office Building, Washington, DC.

DEAR CHUCK: You will soon consider S. 1220, the National Energy Security Act of 1991, which contains several titles of interest to the State of Iowa.

Legislative titles that deal with speeding up FERC's consideration of interstate pipeline construction, increasing energy efficiency, amending the Public Utility Holding Company Act (PUHCA) of 1935 to facilitate development of independent power, and requiring greater use of alternative fuels will all serve to benefit Iowa's industries, including agriculture, trucking, travel, tourism and manufacturing.

As you are aware, Iowa imports 98% of its energy, which makes our citizens vulnerable to possible energy supply shortages and high costs. Our goals are to create greater diversity in Iowa's energy supply and demand chains, increase competition and improve efficiency in the electric industry.

I understand that there are several possible amendments to the bill, and I hope that, when the debate is concluded, S. 1220 will contain those items of greatest interest to Iowa.

Your consideration is deeply appreciated.

Sincerely,

TERRY E. BRANSTAD,
Governor.

NATIONAL GOVERNORS ASSOCIATION,
September 30, 1991.

Hon. MALCOLM WALLOP,
Ranking Minority Leader, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: As you may be aware, over two years ago the nation's Governors adopted recommendations for a comprehensive national energy policy. This statement, a copy of which is attached, noted in part that "the governors believe that the development of a comprehensive, coherent, and productive national energy policy is imperative as the nation approaches the 1990's" (original italics). The mid-east crisis has made it clear that the enactment of comprehensive national energy legislation is still imperative, and we urge your speedy consideration of S. 341, the National Energy Security Act of 1991.

While we can not make an unqualified endorsement of S. 1220 as reported by the Committee on Energy and Natural Resources, we believe the bill does represent a good start and is the best available vehicle for enacting a comprehensive national energy policy. Moreover, this proposal contains many important recommendations and clearly moves the country in the right direction. Among other provisions of the legislation at least broadly consistent with the Governors' recommendations are measures to increase the use of alternative fuels, promote electric vehicles, improve energy efficiency, promote the development and export of renewable energy technologies, streamline the construction of natural gas pipelines and nuclear power projects, and expand research into the environmentally acceptable use of coal, our most abundant domestic energy resource.

Having said this, we must also report that the current proposal falls short of the Governors' recommendations in several important respects. Frankly, we believe the bill is not aggressive enough with respect to either encouraging energy production or improving energy efficiency and conservation. With respect to energy production, the Governors

have endorsed tax incentives for domestic oil and gas exploration and development and enhanced recovery. We endorse equivalent tax incentives for energy conservation and efficiency investments. Neither kind of tax incentive is included in the bill reported by the Committee on Energy and Natural Resources.

With respect to conservation and efficiency, the bill promotes energy efficiency labels for many appliances, but not standards as we have recommended. The most conspicuous shortcoming of the legislation, however, is the absence of a provision to significantly increase the fuel efficiency of motor vehicles. The Governors' view is that our excessive use of oil in the transportation sector is so serious that *all* reasonably available measures should be employed to reduce it, including increases in CAFE standards, enhancement of mass transit, and development of meaningful alternative fuel programs.

While the Governors have not made a recommendation specific to the Arctic National Wildlife Refuge (ANWR), we have agreed that some areas currently off-limits to oil and gas development should be opened up, with appropriate environmental safeguards. Many of us believe that the nation would accept development in ANWR in return for a significant increase in CAFE standards.

We hope you agree that the nation's leadership has what amounts to a moral obligation to address energy in a comprehensive fashion, including not only energy security and adequacy of supply but also conservation, efficiency, and environmental concerns. We also believe the American people are ready to face even the toughest issues and do what is smart, given the right kind of leadership and the perception that our policy is fair. We stand ready to help in any way we can and look forward to working with you in the development of suitable legislation.

Sincerely,

GOV. GEORGE A. SINNER,
Chairman, Committee on Energy and Environment.

GOV. NORMAN H. BANGERTER,
Vice Chairman, Committee on Energy and Environment.

THE SECRETARY OF ENERGY,
Washington, DC, October 22, 1991.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: Legislation to enact a National Energy Strategy will soon be brought to the Senate floor. That legislation, S. 1220, lays the foundation for a more efficient, less vulnerable, and environmentally sustainable energy future and deserves immediate and full consideration.

Numerous organizations representing the Nation's governors, State legislators, mayors, and county officials have adopted resolutions calling upon Congress to adopt a comprehensive, balanced national energy policy. In doing so, these organizations have indicated how important such legislation is to the future of the Nation.

Enclosed for your review are copies of resolutions and/or letters of support from the following State and local organizations: Coalition of Northeast Governors; The Energy Council (formerly South/West Energy Council); National Association of Counties; National Conference of State Legislatures; National Governors' Association; National League of Cities; Southern Governors' Association; Southern Legislative Conference; Southern States Energy Board; U.S. Conference of Mayors; Western Governors' Association; Western Legislative Conference.

I call your attention to these resolutions as an indication of the groundswell of support that has developed for the expeditious consideration of comprehensive, balanced energy legislation such as S. 1220.

Sincerely,

JAMES D. WATKINS,
Admiral, U.S. Navy (Ret.).

THE JOINT CONGRESSIONAL/CONEG AD-HOC WORKING GROUP ON ENERGY

As a result of the rapid rise in oil prices following the Iraqi invasion of Kuwait, the Coalition of Northeastern Governors (CONEG) established a joint Congressional/CONEG Ad-Hoc Working Group on energy. The Group's responsibilities will be to advise the CONEG Governors on the: effect of federal energy policies and legislation on the Northeast economy; development of a regional energy policy; creation of a plan for locating a refined petroleum products reserve in the Northeast, and effect of increases in energy prices on the Northeast economy.

The immediate concerns of the Working Group are to work with the Congress and the Department of Energy to: insure that a regional refined product reserve is established in the Northeast; develop procedures for the Secretary's 10 percent set-aside authority from the Strategic Petroleum Reserve, and encourage the development of regional analyses concerning the potential impact on the Northeast region of a worsening of the current situation in the Gulf.

In addition, the Group is also carrying out a survey of the nine CONEG states to assess common energy policies and procedures.

The Group is comprised of 13 members representing the nine CONEG states and Congress, Scott Weiner, President of the Board of Public Utilities, chairs the Working Group. A list of state members is attached. Congressional members are: Representative Boehlert, New York; Representative Markey, Massachusetts; Senator Bradley, New Jersey; and Senator Jeffords, Vermont.

In addition, the CONEG Governors have passed a comprehensive energy policy, a copy of which is attached.

CONEG POLICY—THE DEVELOPMENT OF A NATIONAL ENERGY STRATEGY

The Coalition of Northeastern Governors (CONEG) believes that it is essential to develop a national energy strategy, and supports the Administration's effort to develop such a strategy. The recent Iraqi invasion of Kuwait has again highlighted the vulnerability of the Northeast economy to disruptions in energy supplies and price increases, and there must be a fundamental redirection of national energy policy.

Unwarranted increases in gasoline and home heating oil of more than 20 cents a gallon were reported by consumers and states in our region only days after the beginning of the invasion. The Northeast Governors support strong national leadership to minimize these increases, and join with the President in calling upon oil companies to exercise extreme restraint in energy prices. We support strong action by the Attorney General, the Secretary of Energy, the Federal Trade Commission, and the Commodities Futures Trading Commission to investigate and pursue any companies which appear to be engaging in unjustifiable or illegal pricing practices. Actions by Federal agencies to dampen disruptive speculation in the energy commodity market may be necessary.

The CONEG Governors urge the Administration to act promptly to finalize a national energy strategy that encourages reliable and diverse sources of energy by: providing the vision for sustainable energy future; integrating energy, environmental, and economic policy objectives; expanding the supply, delivery and use of North American energy resources, including natural gas, and the prompt resolution by FERC of outstanding energy issues, including all "open season" natural gas pipeline proposals; making energy efficiency the cornerstone of the Nation's energy policy by aggressively promoting increased efficiency in all sectors; increasing the use of renewable sources of energy by expanding research, development and demonstration of these technologies; assuring adequate funding for emergency preparedness efforts at the state and federal level; providing adequate federal funding for public transportation to encourage greater reliance on high-speed rail and public transit, and to gain the benefits of reduced fuel use and environmental emissions; increasing the Corporate Average Fuel Economy Standards to 40 m.p.g. by 2001; continued strengthening of a working partnership between the states and the federal government.

The Coalition of Northeastern Governors also calls upon the Congress to pass legislation reauthorizing the Strategic Petroleum Reserve (SPR). The Coalition believes that the SPR should be used to bring stability to the market place during major international as well as domestic, disruptions in supply and price. In addition, CONEG calls for the establishment of a Northeast regional product reserve.

The sudden rise in oil prices will place severe hardships on the poor and elderly residents of the Northeast, and will strain the ability of states to meet the fuel assistance needs of their citizens. CONEG is therefore calling upon the Congress to restore federal appropriation levels for the Low-Income Home Energy Assistance Program (LIHEAP) to levels at least comparable to previous peak levels, and to proceed with the budget process in a timely manner to allow states to establish programs prior to the onset of winter. The federal government should establish a contingency fund or other mechanism to permit rapid disbursement of LIHEAP funds in response to winter energy price increases.

Approved August 23, 1990.

POLICY STATEMENT RELATIVE TO SENATE DEBATE OF THE JOHNSTON-WALLOP BILL (S. 1220)

BACKGROUND

In December of 1988 the South/West Energy Council (predecessor to the Energy Council) presented then President-elect George Bush with a National Energy Strategy proposal. The result of a six month project, S/WEC's proposal was billed as a "starting point for federal efforts."

In 1989 the Bush Administration undertook a National Energy development effort. The basis laid by the Administration has been utilized by two leaders in the Senate. Senators J. Bennett Johnston and Malcolm Wallop have proposed the National Energy Security Act of 1991, which was passed by the Senate Energy and Natural Resources Committee on May 23, 1991.

The Johnston-Wallop bill (S1220) is in many ways similar to the S/WEC proposal. In some cases it addresses issues on which the Council has not taken a position (e.g. Public Utilities Holding Companies Act reform); further, it does not address some of the Council's specific proposals (e.g., a Pan American Energy Alliance). However, the Johnston-Wallop bill is a comprehensive

piece of legislation which will serve as a useful basis for congressional debate of energy policy legislation. The next logical step in Congressional consideration of such a policy is debate of the Johnston-Wallop bill (S1220) on the floor of the U.S. Senate.

POLICY STATEMENT

The Energy Council urges the U.S. Senate to bring S1220 to the floor for consideration as soon as possible, following the August 1991 recess. The Energy Council has not taken a position on every element of S1220 (e.g. PUHCA). However, the Energy Council finds the Johnston-Wallop bill to be the most comprehensive proposal of federal policy addressing energy, which is so essential to assuring a viable economy, a healthy environment, a strong national defense and sustaining the American way of life. The Energy Council finds S1220 to be an excellent starting point for debate.

DISPOSITION

This policy statement, adopted unanimously by the Energy Council on September 8, 1991 will be distributed to the Majority Leader of the U.S. Senate and the Congressional Delegations of the member states of the Energy Council.

LORI CAMERON,
Secretary.

ENVIRONMENT, ENERGY, AND LAND USE STEERING COMMITTEE RESOLUTION ON NATIONAL ENERGY STRATEGY

Whereas, in July 1989, the President of the United States directed the Secretary of Energy to develop a National Energy Strategy; and

Whereas, the preparation to the National Energy Strategy involved 18 months of extensive effort including the testimony of over 400 witnesses at public hearings held in 46 states; and

Whereas, the National Association of Counties, (NACo) among others urged the Department of Energy to develop a balanced strategy that emphasizes energy conservation, development of alternative fuels and alternative and renewable sources as well as expanding our reliance on domestic fossil fuel reserves; and

Whereas, NACo has long recognized the need for economic incentives to promote the early development of alternative energy sources; and

Whereas, in February, 1991, the Department of Energy finally presented its National Energy Strategy to the Congress and to the public; and

Whereas, the Senate and the House of Representatives are currently working on National Energy Strategy legislation; and

Whereas, the adoption of such legislation will have long range impact on the lives of all Americans represented by local government officials: Therefore, be it

Resolved that the National Association of Counties in conjunction with its 1991 County Platform urges the Congress to include as part of its National Energy Strategy legislative provisions which will steadily diminish our reliance on foreign oil imports by

A. Adoption of the same alternative fuel vehicle fleet requirements as legislated by the Clean Air Act of 1990. The Congress is further requested to include provisions promoting cooperative programs between the Department of Energy, local governments and the private sector to assist in meeting the alternative fuel fleet requirements of the Clean Air Act of 1990.

B. Development and implementation of ethanol and other renewable resource fuels which meet the emissions requirements of the Clean Air thus contributing to the economic stabilization of our agricultural communities. Such fuels should be subject to the same federal gasoline tax as ordinary fuels.

C. That any legislation regarding Corporate Average Fuel Economy (CAFE) ratings carefully balance the need for fuel economy against the impact on vehicle safety.

D. Adoption of legislation supporting additional incentives for research and development of alternative domestic energy sources.

E. Adoption of legislation that decreases reliance on foreign energy imports by encouraging domestic energy production.

Adopted by Environment, Energy and Land Use Steering Committee (unanimous).

JULY 13, 1991.

NATIONAL ENERGY POLICY

The National Conference of State Legislatures urges the federal government to develop, implement and maintain an expansive, integrated, environmentally-sensitive and cost-effective national energy policy.

The primary goals of a national energy policy should be to provide for the most efficient use of energy, to promote reliable sources of domestic energy supplies, to develop a comprehensive energy conservation strategy and to develop and promote the use of alternative, renewable energy sources. A national energy policy should ensure adequate supplies of affordably priced energy. A national energy policy should ensure the use of energy in an efficient and environmentally-sound manner so that the needs of our citizens, economy and national security interests are met. Energy independence shall be the long term goal of the United States. A balanced mix of energy sources is essential to the security and the future economic growth of the United States. It is also imperative that a national energy policy account for the effect of the use of each fuel source on the environment.

PRINCIPLES

Those principles which NCSL believes ought to guide the development and implementation of a national energy policy include: Promotion of the most efficient and economical use of all energy resources; promotion and provision of incentives for the development and optimal use of all energy resources; ensurance that various domestic energy sources are continually developed, maintained and stored to prevent supply emergencies and to preserve the nation's independence; consideration and assessment of environmental costs and benefits for all energy resources, fuels and technologies in rendering legislative, regulatory and market decisions regarding energy production and use; provision of an affordable energy supply for all citizens; specification and balancing of clear lines of local, state and federal regulatory authority; development of both short- and long-term strategies to provide adequate energy supplies, efficient utilization of those supplies and optimum cost effectiveness; promotion of the education of school-age children regarding energy resources, consumption and production and regarding environmental protection, safety and risks in energy production; ensurance of expanded energy research and development and broadening of the citizenry's access to energy-related information; ensurance of participation of state and local officials in the development and implementation of a national energy plan and strategy; avoidance of mandates, particularly unfunded mandates, upon state and local governments in order to effect a national energy policy, and promotion of energy conservation and efficiency and the development and use of alternative energy supplies.

IMPLEMENTATION

The development of environmentally-sound energy conservation and efficient supply and distribution systems requires long range planning, least-cost planning, and sustained efforts. The immediate establishment and implementation of a national energy strategy, as recommended in this document and further discussed and supported in existing NCSL policies, will assure that the future energy needs of American citizens, the United States economy and national security interests are met in an efficient and environmentally-sound manner.

Development of a national energy strategy should have at least these six principal steps: (1) a forecast and assessment of our nation's energy future and its impacts; (2) an evaluation and ranking of short- and long-term energy options available to the nation; (3) an evaluation of possible energy futures which provide greater benefits to our citizens, based upon the options ranked above; (4) development of recommendations for energy options and energy futures that the nation should pursue, with the establishment of national targets or goals; (5) evaluation and recommendation of implementation mechanisms including, but not limited to, incentives, technical assistance, educational programs, regulatory standards or guidelines to achieve the targets or goals; and (6) coordination of federal and state components, responsibilities, and authority.

The U.S. Department of Energy (DOE) should rank the energy options available to the nation. The options should be grouped by end use and not by specific fuels or efficiency improvements. The ranking of each option within a group shall reflect the market and nonmarket costs of energy saved or delivered, the relative degree of uncertainty and risk exposure, and the compatibility of each option with other national goals. Ranking should be periodically revised to reflect changes over time. Any ranking and any energy policy should include the long-term environmental impacts.

In choosing among energy policy alternatives, a cost-benefit approach should be applied in which the full long-term costs of an option in taxes, consumer energy bills, environmental impacts, security risks, and other national goals are weighed against the additional availability or conservation of energy and other long-term benefits it might be expected to generate.

Those measures involving the lowest costs, in terms of public expenditures, revenue losses, costs to consumers, and environmental or other impacts, should be considered first. Energy policy alternatives that would improve our energy security and reliability without imposing significant new costs, while balancing the need for environmental protection, should be implemented. Although the potential costs and benefits of a given proposal can be extremely difficult to estimate, this framework is valuable in setting consistent terms of debate for our various energy policy choices both now and in the future.

An effective national energy policy must include carefully coordinated federal and state components. The responsibility for developing the state components rests principally with the legislatures. Channels of communication between state legislatures and the federal government must be strengthened. In the development of a national energy policy, the federal government

shall consult closely with state legislatures, shall devise mechanisms to bring state legislatures as full participants into the energy decision-making process on a continuing basis, and shall ensure the inclusion of representatives of the legislative branch of state government in all state-federal working groups in the energy area.

CONSERVATION AND ENERGY EFFICIENCY

Increased energy efficiency and conservation should be considered as primary sources of energy, since both are practical, cost-efficient and essential for addressing future energy needs. Increased efficiency will decrease our reliance on imported oil, reduce the environmental impacts of fossil fuels, reduce the long-term operating costs of U.S. industries thus improving their competitiveness, slow the depletion of our finite fossil fuels and extend the time we have to make the transition to new and innovative energy technologies. Environmental concerns associated with energy policy choices can be accomplished most effectively by improving the efficiency of this nation's energy use and by making sure that choices among fuels and energy products and services reflect their true environmental costs. This principle shall apply to imported energy as well as domestic energy.

It shall be part of the energy strategy of the United States to promote energy efficiency in a variety of ways including setting or strengthening as technologies improve: Corporate Average Fuel Economy Standards for automobiles; energy efficiency provisions in building codes (including lighting efficiency standards and weatherization); home appliance and heating and cooling unit efficiency standards; waste recycling and reduction standards for industrial manufacturing; standards for conservation in electrical production and supply including cogeneration, and use of alternative energy; and a national transportation policy, emphasizing various forms of mass transit, that promotes energy efficiency. These measures impose costs as well as provide benefits and should be evaluated for adoption along the lines outlined in the implementation section. Programs must be cooperatively developed and implemented by the states and federal government working together as full partners, and should consider incentives to promote and encourage energy efficiency and development of cost-effective energy resources.

Also, the federal government shall promote energy conservation education and fund research into conservation technologies. Federal funding of energy conservation programs, including grants to states, should be enhanced.

The government's leadership role in the purchase and use of new energy efficient technologies and products shall be expanded, and all government-owned buildings shall make use of economical energy conservation programs.

In addition to the energy conservation program called for above, additional policies should be adopted, including the following:

1. Research and Development—Priority should be given to the renewable energy resources for the long-term and to the conservation and conversion from existing fossil fuel resources in the short-term. Basic energy conservation research funded by the government shall include superconductivity studies.

2. Energy from Solid and Liquid Waste—The conversion of solid and liquid waste after all recyclable and reusable materials are removed can make a contribution to our energy supply. A resource recovery program which utilizes the waste stream should be encouraged where economically and environmentally feasible for this purpose provided that problems with air emissions and ash residue are resolved.

3. Architecure—Use and design of innovative building technologies, including building orientation, that enhance conservation and efficient energy usage shall be promoted.

RENEWABLE ENERGY

Renewable energy sources are characterized by a broad range of technologies, costs, efficiencies and environmental concerns. Renewable energy sources include, but are not limited to, geothermal, hydropower, biomass, wind, photovoltaics and solar. Recognizing this spectrum of resources, the federal government should institute a long range, stable Renewable Energy Development Program which identifies and assists renewable energy sources from research and development through demonstration projects and commercialization in a cooperative effort among industry, higher education, and national laboratories.

Renewable energy resource development must be ranked and funded on the basis of factors including energy efficiency, economic competitiveness, environmental impacts, and technological adaptability. Part of this program, and critical to its success, is federal development of alternative technologies that improve renewable energy systems. Also needed is a translation and distribution system for international technical and marketing papers on renewable energy. The U.S. should strive to become a world leader in the use of renewable energy resources.

ENERGY EMERGENCY PREPAREDNESS

The federal government should support and enhance energy emergency preparedness in order to reduce the potential impact of petroleum supply disruptions. Initial efforts should focus on strategies to prevent emergencies from occurring. Such programs shall give consideration to existing state laws and programs, and state and local officials shall be included in the federal planning process.

The national energy emergency preparedness program shall include the following principles: voluntary conservation is preferred to mandatory measures wherever possible; any mandatory response should be phased in, beginning with the least stringent measures, with gasoline rationing reserved for only the most severe shortage; and to minimize undue hardships on states and regions heavily dependent on motor vehicle transportation, rationing allotments and allocation plans should be based on state and regional needs and strategies rather than on national averages. Priority shall be given to home heating needs including home heating oil and propane, provided homes are adequately insulated.

It is essential that emergency response procedures be thoroughly and carefully tested to ensure the coordination and flow of information between energy suppliers, consumers, and federal, state and local governments. Maintenance and operation of the Strategic Petroleum Reserve (SPR) is essential to any national energy emergency preparedness plan. The federal government should fill the SPR to its authorized level. There should be continued refinement of the timely sales process for SPR oil and the continued regular testing of the SPR sales mechanism and physical drawdown capabilities. Where necessary, regional rotating product stocks or other mechanism to ensure regional availability of supplies should be established. Fuel switching capability for large energy users to reduce dependence upon a single fuel source should be encouraged.

CRUDE OIL

The federal government should promote the environmentally-sound production of domestic energy resources in coordination with the conservation and efficient use of energy resources, and the management of energy imports.

The federal government should promote and encourage domestic production of crude oil in an environmentally-sound manner in order to supply United States consumers with a secure source of petroleum, and provide a stabilizing influence to the world price of crude oil. Since domestic production is declining rapidly, the efficient use and conservation of these resources must be encouraged. Also, the extraction and transportation of crude oil must be done only with full safeguards for the protection of the environment. In this regard, the federal government should consider incentives for domestic exploration, maintenance of stripper wells, but excluding other extractions, and technological research for methods of enhanced oil and gas recovery that are environmentally safe and in accordance with state policy.

The federal government should ensure that energy resources are utilized in a manner that recovers the most energy value possible while assuring full protection of the environment. Similarly, it should be the strategy of the United States to alleviate oil dependency by funding research and development to perfect alternative fuels, particularly for the transportation sector and primary modes of personal transportation. Enhanced oil and gas recovery from known reserves should be promoted in an environmentally-sound manner.

The federal government should manage United States imports by diversifying import suppliers, pursuing a Pan American Energy Alliance with Western Hemisphere producing nations, and opening a dialogue with suppliers worldwide.

COAL

Coal is America's leading fossil fuel in reserve. Coal holds the promise of long-term energy security for this nation. Resources of coal can be properly utilized only if we develop a technology to burn coal more cleanly, and efficiently. Because coal consumption produces carbon dioxide, conservation and efficiency must be emphasized. Mined lands should be reclaimed to an environmentally appropriate state.

It should be the goal of the United States to provide continued support for the Clean Coal Technology Program, in partnership with the private sector. Research and technology development in clean coal usage should include work in precombustion, combustion, post-combustion, and coal conversion areas with desulfurization efforts a top priority. The United States should jointly address transboundary environmental problems with its neighbor Canada. A resolution on the issue of acid rain must be reached soon and should take into account the findings of the National Acid Precipitation Assessment Program (NAPAP), the National Academy of Sciences (NAS) and other recent scientific reports. Programs should be designed to reduce the amount of sulfur dioxides by at least 50% and to reduce nitrogen oxides emitted into the air from coal burning. The solution should promote the utilization of clean coal technologies and balance costs to our environment and health with potential impacts upon the economy and costs to electricity consumers.

Since gas generated from coal can be distributed through existing pipeline systems, and since the delivery of coal in a conventional form will require extensive capital investment in plant conversion and rail transportation, coal gasification should be seriously considered as an alternative to the use of coal in a conventional manner.

The effects on local infrastructure needs and the costs of prime farmland protection and land reclamation shall be considered in the development of a national coal program. Financing of activities under the abandoned mine reclamation fund shall be accelerated, and a federal commitment to reclamation shall be strengthened. No federal policy having implications for land development or management should be adopted without accommodating the laws and views of affected states.

NATURAL GAS

It should be part of the strategy of the United States to include the use of clean, efficient natural gas. It should be used in a manner that sustains long-run availability. This should include the co-firing of natural gas with other fuels for efficiency or environmental purposes.

The United States should encourage domestic production of natural gas in an environmentally-sound manner. Further, the federal government should complete price deregulation by 1993 as provided in current law.

The Federal Energy Regulatory Commission should expedite decisions regarding pipeline construction serving the oil-dependent markets and should be encouraged to provide access by interconnecting pipelines to producing areas of this nation. Both producers and users of natural gas benefit from orderly transportation programs which provide competition and reliable supplies of natural gas at the lowest possible cost. The Federal Energy Regulatory Commission should take steps, to the extent the Natural Gas Act and the Natural Gas Policy Act allow, to remove the disincentives for natural gas pipelines to provide voluntary transportation of natural gas for others, and should immediately take such actions as may be necessary to provide final take-or-pay relief in the natural gas marketplace.

The federal government should fund continuing research and evaluation relative to the environmentally-sound production and use of natural gas, in order to conserve energy by improving efficiency and should promote development to alternative vehicular fuels.

NUCLEAR

Nuclear power is an option that should be included in the development of a national energy plan, with the utmost care taken to address concerns regrading plant safety, and the transportation, storage and disposal of nuclear waste.

A federal government program for the long term management of high level radioactive waste, funded by the generators of the waste, should be pursued in a safe, timely and cost-effective manner, with the highest priority given to the safety and technical suitability of storage or disposal sites. Such a program shall be developed in full consultation with all of the affected states. The nuclear power plant licensing process for future plant construction must be improved to ensure both public input and timely decisions, and federally standardized nuclear power plant designs should be established. However, automatic approval of nuclear power plant operating licenses should not be permitted.

It is essential that the Nuclear Regulatory Commission provide strong, centralized, and consistent administration that would improve management of the agency, expedite policy formulation, and help bring about needed reforms in licensing and regulation, that are consistent with the NRC's primary responsibility of ensuring public health and safety. Meaningful and effective state participation in public safety planning and transportation of commercial nuclear waste is necessary.

States should continue to have the right to monitor operating conditions at nuclear power plants, waste storage and disposal facilities, and to exercise regulatory authority where consistent with federal law.

Federal funding should be provided for research in the areas of waste management technologies nuclear fusion, and plant retrofit and life extension.

ELECTRICITY

The federal government should promote energy efficiency and conservation to lower the demand for electricity. The development of sources of electric energy that are sufficient to meet national needs, secure from external threat, reliable in availability and delivery, safe relative to people and the environment, and efficient for use in homes, businesses and industries should be pursued after aggressive efficiency and conservation programs are implemented.

The electricity sector today is marked by tremendous regional diversity, especially with regard to capacity. Fuel usage also varies widely. Implementation of federal legislation that fails to recognize this diversity inevitably penalizes one region or another.

REGULATORY AUTHORITY

State regulatory bodies are close to consumers, utilities, industries, and concerned for state environmental and economic well-being. State regulatory bodies are in the best position to evaluate consumer needs, questions relative to fuel choice, economic development implications, and system reliability. Additionally, the determination as to when and how competitive bidding should be employed in the expansion of electric power generation capacity or to bring on new energy efficiency resources should remain the prerogative of the states through their regulatory commissions and the affected utility companies.

NCSL strongly supports and urges the continuation of the concept of primary state responsibility and final decision authority with state legislative oversight for the approval and siting of all major energy conversion facilities, subject to minimum federal standards established only after the fullest consultation with state governments, both executive and legislative branch.

The Federal Energy Regulatory Commission should ensure that regulation of interstate wholesale markets does not impede state regulation of utility investments. Multi-state cooperation in identifying the economics of and need for additional energy transmission and generation projects shall be encouraged. Least-cost energy planning for electrical generation should be pursued at the state or regional level, wherever applicable. States should have the authority over intrastate transmission practices. There should be no further preemption of state regulatory authority nor shall federal standards be established governing state regulation of utilities. Federal regulators shall ensure full and adequate consultation with state regulators prior to the determination of federal policy.

Our nation must maintain and increase its commitment to energy conservation and efficiency, while maintaining adequate and reliable energy for economic growth. Utilities, investors, equipment manufacturers and consumers should be given legislative and regulatory incentives to promote conservation and efficiency in utility planning, equipment and appliance manufacturing and energy usage practices.

Electricity research and development efforts shall be intensified with regard to energy efficiency, superconductivity, advanced and reasonable environmental controls in power generation, and development of cost-effective renewable supply technologies.

RESEARCH AND DEVELOPMENT

The cornerstone of a national energy policy should include a broad research and development component. The federal government has already committed substantial research funds for clean coal, nuclear research, basic science and related efforts. These research and development efforts ought to be continued. These efforts, however, should be supplemented with increased incentives and federal funding for research and development projects emphasizing emerging technologies, including, but not limited to renewable resources, energy conservation, efficient use of energy, alternative fuels and oil and gas recovery. This enhanced long-term research and development capacity should also be designed to encourage private sector participation with federal and state representatives.

EDUCATION AND INFORMATION

It is essential that the nation, particularly its elementary and secondary school-age children, be made fully aware of energy use and costs, production processes, alternative energy resources and the impact energy usage has on our environment. If we are to eliminate any inefficiencies that exist as a result of current and future energy use, we must have a fully informed public. NCSL recommends that public and private sector education efforts be initiated, expanded and appropriately funded. These efforts should emphasize that significant economic and environmental benefits can be achieved through increased efficiency and conservation.

An essential step in formulating a balanced energy policy is to develop the necessary data and employ analytical methods and models to assess the productivity costs and risks of the various energy choices available to the nation. The Department of Energy, with assistance from the Departments of Defense, Treasury and State, and the Office of Management and Budget, and in conjunction with the states, shall develop this analytic base.

TRANSPORTATION

National transportation strategies must include public policy initiatives directed at broadening the efficient use of our energy resources. These policy initiatives should include, but not necessarily be limited to, incentives and adequate funding for mass transit, high speed rail, magnetic levitation and other emerging transportation technologies. Public-private partnerships should be encouraged.

Annual Meeting 1990.

NATIONAL GOVERNORS' ASSOCIATION

D-50. A COMPREHENSIVE NATIONAL ENERGY POLICY

50.1 Preface

From the time of the Industrial Revolution, energy has been the lifeblood of economic activity and growth. To provide a foundation for continuing economic develop-

ment, it is important that our changing economy have available the appropriate energy supplies and services. Our energy infrastructure must be sufficiently flexible to adapt to changing needs.

Currently the United States imports more than 40 percent of the oil it consumes, and in 1987 energy imports accounted for almost one-fourth of the nation's balance of trade deficit. Domestic oil production is decreasing and will continue to decline, and by the middle of the next decade, oil imports could rise to 50 percent or more of American oil consumption. In the critical transportation sector alone—where there are virtually no alternatives to petroleum-based fuels—the nation consumes more oil than it produces. The implications for the nation's economy, national security, and balance of trade are enormous. There is also a great risk that foreign policy options will become constrained as the result of our dependence on foreign energy supplies.

Yet America is also blessed with abundant domestic energy resources, including supplies of oil, coal, gas, uranium, and a variety of renewable energy resources, which can help meet our energy needs and reduce levels that must be imported. The nation is also learning to use energy supplies more efficiently. Indeed, since the 1973 oil embargo, the nation's use of energy has decline significantly both per capita and per unit of the GNP, and greater efficiency has been our largest new "source" of energy supply. In particular, the nation's use of nonelectric energy forms has declined appreciably, while its use of electricity has increased significantly, with almost all of the increase provided by coal and nuclear energy.

The Governors believe that the development of a comprehensive, coherent, and productive national energy policy is imperative as the nation approaches the 1990s. This policy should recognize the risks involved in relying heavily on imported energy and should provide for the optimum use of domestic energy resources. It must promote both development of additional domestic energy supplies and increased energy efficiency as consumers meet their needs for energy services. A viable domestic energy supply industry must be maintained. The nation's economy must become more energy efficient in order to compete globally.

50.2 Policy Framework

A comprehensive national energy policy must meet public needs for energy, recognizing the tradeoffs between costs and risks and striving for consistency with other national priorities and goals. The principle goal of our national energy policy should be to provide secure and affordable energy supplies and services that will ensure the health of our economy and our environment. The Governors suggest a national energy policy based on seven guidelines. Energy policy should: Promote the prudent and efficient use of our resources and the pursuit of a long-term least-cost energy strategy to minimize the cost of reliable energy supplies and services; pursue a diverse and flexible energy supply mix that provides for future needs and reflects security and reliability concerns; address environmental concerns; ensure sustained public and private investment in energy research and development; include a well-specified division of regulatory authority between the states and the federal government; provide our citizens with affordable and adequate energy supplies and services, and provide Americans with access to the information they need to make sound energy choices.

50.2.1 Energy Efficiency. Energy efficiency offers a practical means of achieving many of our energy policy goals. Increased efficiency will decrease or reliance on imported oil, reduce the environmental impacts of fossil fuels, enhance the competitiveness of U.S. industries, slow the depletion of our finite fossil fuels, and extend the time we have to make the transition to new and innovative energy technologies.

There are environmental implications associated with energy policy choices. Mounting concerns over ozone pollution, acid deposition, and global warming bring this issue to the forefront. We must recognize and address the short- and long-term environmental impacts of our energy choices and make them environmentally acceptable. The Governors believe addressing these environmental concerns can be accomplished most effectively by improving the efficiency of this nation's energy use and by making sure that choices among fuels and energy products and services reflect their true environmental costs. This principle should apply to imported energy as well as domestic energy.

50.2.2 Energy Emergencies.

It is also imperative that the states and federal government develop strategies for responding to a broad variety of possible energy emergencies. Initial efforts should focus on strategies to prevent emergencies from occurring. Efforts to diversify our energy systems while maximizing our use of cost-effective domestic energy resources are part of this long-term effort. Additional efforts in the interim must focus on planning the response federal and state governments would take if any energy emergency occurs. It is essential that emergency response procedures be well tested to ensure the coordination and flow of information between energy suppliers, consumers, and federal, state, and local governments.

50.2.3 Cost-Effective Energy Services. The Governors reiterate their support for programs to assist those unable to afford a minimal level of energy services. The focus should be on providing energy services in the most cost-effective manner. Permanent solutions such as efficiency improvements should be stressed, recognizing that temporary assistance may be necessary to defray fuel bills. Also job retraining and relocation assistance may be necessary for those in the energy industries who suffer job dislocations as the result of energy policy decisions.

50.2.4 Risk Reduction. The Governors recognize that all energy sources carry some degree of risk—either military, economic, environmental, or social. Options carrying high risk should be compared to alternatives. Then the question becomes whether a premium needs to be paid to reduce the risk. The Governors recognize that some premiums are worth paying. The country may purchase additional energy security and reliability through measures that assure diversified supplies of those energy resources on which we currently depend, including greater domestic production, and by expanding our energy choices through improved energy efficiency and the development of commercially available alternatives.

50.2.5 Information Needs. The Governors also recognize that the strength of the economy is its reliance on the private sector, and that a government has a responsibility to provide consistent, clear policy direction and make rational decisions that can help guide private sector initiatives. Federal, state, and local governments cannot provide credible policy direction or respond properly to the needs of consumers without good information. Thus, an essential step in formulating a balanced energy policy is to develop the necessary data and employ analytical methods and models to assess the productivity costs and risks of the various energy choices available to the nation.

The Governors urge the Department of Energy (DOE), with assistance from the Departments of Defense and State, and in conjunction with the states, to develop this analytic base. DOE should rank the energy options available to the nation. The options should be grouped by end use and not by specific fuels or efficiency improvements. The ranking of each option within a group should reflect the market and nonmarket costs of energy saved or delivered, the relative degree of uncertainty and risk exposure, and the compatibility of each option with other national goals. Because the costs and risks associated with each option change over time, DOE should periodically revise the rankings. The results of this work would provide Congress and federal and state energy policymakers with the information to respond appropriately as the future unfolds, and to take the steps necessary to protect the needs of consumers and the country.

50.2.6 Long-Term Costs. In choosing among energy policy alternatives, including those in this policy, the Governors believe that a cost-benefit approach should be applied in which the full long-term costs of an option in taxes, consumer energy bills, environmental impacts, security risks, and other national goals are weighed against the additional availability or conservation of energy and other long-term benefits it might be expected to generate.

Those measures involving the lowest costs, in terms of public expenditures, revenue losses, costs to consumers, or environmental or other impacts, should be considered first, and indeed, there are measures that would improve our energy security and reliability without imposing significant new costs. Although the potential costs and benefits of a given proposal can be extremely difficult to estimate, this framework is valuable in setting consistent terms of debate for our various energy policy choices, both now and in the future.

50.3 Policy Options

The Governors recognize that while a comprehensive evaluation of energy policy options is needed, *some energy decisions must be made now*. Consistent with the policy framework described herein, the Governors recommend several policy options that are expected to promote additional domestic energy supplies or efficiency. The following recommended options provide a sound beginning for a comprehensive national energy policy. In considering the implementation of these options, specific programs and strategies must be carefully designed to properly balance all of their short- and long-term benefits and costs.

50.3.1 Improving Energy Supply

Encourage exploration and development of the nation's primary energy resources, including oil, gas, coal, uranium, renewable energy resources, and others, to the extent they are competitive in energy markets and consistent with environmental requirements. Consideration should be given to expanding exploration and development in currently restricted areas.

Provide tax incentives for domestic oil and gas exploration and development and enhanced recovery, to encourage new domestic reserve development and avoid premature shut-in of wells. These incentives could include, as examples, a standard investment

tax credit on exploration and development expenditures, for stripper well operation and maintenance expenditures, and for secondary or tertiary enhanced recovery project expenditures; expensing of geological and geophysical costs; repeal of the well transfer rule; and elimination of exploration and development expenditures as an alternative minimum tax "preference" item.

Provide tax incentives for coal production, transportation, and utilization which will allow for increased use of coal in an environmentally acceptable manner.

Encourage early resolution of nuclear power issues, consistent with safety and environmental requirements. These issues include plant standardization and timely permitting, consistent regulatory oversight of operations, plant life extension and decommissioning, and waste disposal. States should continue to have the right to monitor operating conditions at nuclear power plants.

Deregulate natural gas wellhead prices upon contract expiration.

Provide open access on the part of consumers and producers to natural gas pipeline capacity, consistent with state and federal regulatory authority regarding by-pass of local distribution companies.

Recognize state responsibility to ensure timely decisions on permitting, siting, and licensing of energy facilities, consistent with state and federal law and health and safety requirements.

Encourage multi-state cooperation in identifying the economics of and need for additional energy transmission and generation projects. Regional energy transmission and generation planning could be further enhanced through improved communication among the appropriate state and federal regulatory agencies, affected utility companies, and any other affected parties.

Allow expanded regional and interregional electricity markets where cost-effective. Further consideration needs to be given to questions of transmission access and local by-pass.

Ensure that regulation of interstate wholesale markets does not impede state regulations of utility investments. States should be free to reflect public interest concerns and least-cost objectives in their regulatory activities.

Shift FERC jurisdiction over intrastate wholesale transactions to individual states or to regional regulatory bodies at the option of the state or states involved.

Provide for full utilization of existing rights of way, including highway rights of way, for energy transmission. The siting of energy transmission facilities must be consistent with state and federal law and safety and environmental requirements.

Encourage fair and mutually beneficial hemispheric energy trade agreements consistent with obligations under international agreements. In addition, the Governors support the barrel-for-barrel trade of Alaskan oil for oil from other countries, except in time of energy emergency.

Provide federal incentives for renewable energy resources equivalent (in terms of cost per unit of energy) to the tax credits and other incentives provided for traditional fossil fuels. These could include tax credits for purchasers, cost sharing and demonstration projects, or like measures.

50.3.2 Improving Energy Utilization

Increase vehicle fuel efficiency through means such as raising the corporate average fuel efficiency standards.

Provide incentives for use of alternative motor fuels and production of alternative motor fuel vehicles, including a variety of early fleet demonstrations, such as conversion of postal vehicles to alternative fuels.

Fully consider the energy implications of alternative transportation strategies and resulting actions in transportation planning.

Provide federal incentives for energy efficiency and conservation improvements equivalent to those provided for fossil fuels and renewable energy resources.

Encourage the energy rating of new and existing building stock and establish standards for major energy-using appliances that generally convey with property.

Work with the housing and construction industries and other private and public organizations to promote improved building design and construction technologies for energy efficient buildings and the protection of indoor air quality.

Expand the government's leadership role in the purchase and use of new energy efficient technologies and products.

Expand energy conservation programs for government-owned buildings.

Encourage energy information programs for the residential, small business, commercial, industrial, agriculture, and government sectors to increase awareness of energy use and conservation; new outreach programs for energy information; and energy education in primary and secondary schools and in vocational/technical schools.

Develop alternative financing programs for energy efficiency improvements in the residential, small business, commercial, industrial, agriculture, and government sectors. Examples could include programs such as revolving loans, third party financing, and mortgages that include financing for efficiency improvements.

Restore federal funding of low-income energy service programs. Within both LIHEAP and weatherization, allow the states maximum flexibility to balance immediate and long-term needs. Regulations should encourage state-by-state innovation in approaches to meet varied needs.

Encourage regulated and unregulated energy suppliers to work with states to develop supplemental programs of financial assistance for low-income households in order to make energy efficiency improvements, and other programs that reduce fuel costs.

50.3.3 Research and Development

Two-thirds of the current DOE research budget is devoted to basic sciences and long-term fusion activities. The remaining third is divided among current and emerging technologies, and is dominated by clean coal and nuclear research. The Governors encourage efforts to emphasize emerging fields and technology transfer in promising areas required to meet immediate and future energy service needs. Priority should be given to research in the following areas:

Petroleum and Natural Gas. Enhanced oil and gas recovery by joint federal-state-private initiatives such as the Geoscience Institute for Oil and Gas Recovery.

Energy Efficiency. Capturing opportunities for cost-effective energy efficiency improvements. Additional federal research, development, and technology transfer activities should include support for resource assessment, applied research in building sciences, transportation systems studies, and other end-user applications.

Coal. The production, transportation, and utilization of coal in an environmentally acceptable manner, with particular emphasis on transportation fuels and electric power generation, including the continuation of the clean coal technology program.

Renewable Resources. Reducing the cost and improving the reliability and efficiency of renewable energy sources, in partnership with the private sector. This should include selective commercialization and implementation assistance aimed at demonstrating promising technologies.

Alternative Fuels. Developing alternative fuels, especially those that may be used in the transportation sector. Demonstration and commercialization of alternative fuels that may be produced and used in a manner consistent with protection of the atmosphere is particularly important.

Nuclear Energy. The development and evaluation of advanced, safe, reactor designs, waste management technology, nuclear fusion, and plant retrofit and life extension.

Increase and better coordinate energy research and development by:

Strengthening the federal-state-private research partnership, and shifting research priorities to ensure a balance between basic and applied research and among fuel types and energy efficiency improvements.

Examining the benefits of removing antitrust barriers to pooled industry research efforts.

Promoting federal funding of research and development in areas in which business and industries are unable to capture the benefits of energy research and development.

Increase the emphasis on timely transfer of research findings and new technologies from the laboratory to factories, builders, and users.

50.3.4 Emergency Preparedness

Fill the strategic petroleum reserve (SPR) to its authorized level and provide flexibility to increase or decrease fill rates in response to changes in oil prices. The Governors recognize the efforts of International Energy Agency member nations to establish comparable stocks and urge the continuation and expansion of this effort as well the continuation of cooperation in designing strategic and diplomatic mechanisms to avoid supply interruptions.

Encourage continued refinement of the timely sales process for SPR oil and the continued regular testing of the SPR sales mechanism and physical drawdown capabilities. The Governors urge the development of a region-by-region analysis of the impact of SPR use on the availability of various fuels. If this analysis indicates that any region of the country would not be assured of the availability of fuels in the event of a drawdown, then states should work closely with the petroleum industry to develop regional rotating product stocks or some other mechanism to ensure regional availability of supplies. Establish regional petroleum reserves (RPR) in import dependent or insular states which cannot be served efficienctly by the SPR.

Ensure a full state, federal, local, international, and private partnership in energy emergency response planning for diverse supply shortage scenarios.

Encourage fuel switching capability for large energy users to reduce dependence upon a single fuel source.

50.4 Funding

The costs and benefits of a national energy program will depend upon which policy options we, as a nation, elect to pursue. The Governors believe that many of the options identified in this policy may be implemented at little or no cost to the federal government. The Governors also recognize that additional federal expenditures may be required to fund adequately other options identified in this policy. In part, these funds

could come from a reallocation of existing federal expenditures. The Governors believe that energy should be a national priority.

NATIONAL LEAGUE OF CITIES

Energy Resolution adopted by Energy, Environment and Natural Resources Committee September 1991. Will be considered by full membership at annual meeting, December 1991

NATIONAL ENERGY POLICY

(1) Whereas, the nation's economic and national security depends on adequate energy resources at reasonable prices; and

(2) Whereas, the oil embargoes of the 1970's demonstrated our vulnerability to over-reliance on foreign oil. More recently the Middle East situation highlighted again the need for a national energy policy; and

(3) Whereas, national over-reliance on any single energy resource has the potential to lead to a future "energy crisis,"

(4) Now, therefore, be it resolved that The United States Conference of Mayors supports and urges the U.S. Congress to adopt a comprehensive and balanced national energy policy that reduces dependance on potentially unreliable foreign sources of oil through a balanced program of energy conservation and efficiency improvements, research and development of renewable and alternative energy sources, and increased production and use of domestic energy resources in a manner which protects public health, safety, and the environment.

SOUTHERN GOVERNORS' ASSOCIATION

The Southern Governors' Association supports the phased deregulation of prices paid for new natural gas in order to allow our American free market to balance the supply deficit caused by years of counter-productive federal regulation in the interstate natural gas systems. The best interest of the public can never be served by a regulatory structure which does not provide sufficient supplies to fill demand.

STATEMENT OF POLICY

The Southern Governors offer the following energy policy recommendations to the President and Congress:

1. We demand that Congress establish a National Energy Plan, including near-term and long-term goals and objectives for priority issues.

2. We applaud Congress for acknowledging the critical role that state government must play in the development and implementation of national energy policies. The Southern Governors voice their unified approval of legislation authorizing Governors to establish Regional Energy Advisory Boards.

3. We reiterate our requests to the President and Congress not to abandon any technologies which could assist this nation in bridging the gap between energy supply and demand, or become the basis for energy self-sufficiency.

4. We maintain that federal assistance for state energy conservation and management programs must be continued and expanded. We recommend increasing appropriations for Supplemental Energy Conservation Programs and Energy Extension Service. The Southern Governors support the concept of consolidating energy conservation programs through the State Energy Management and Planning Act. However, proposed funding levels are inadequate, and we suggest that these proposals be abandoned in favor of funding levels which reflect the critical need for adequate planning and management of energy issues at the state level.

5. We commend the President and Congress for their recognition of the need for impact assistance to states which may be adversely affected by accelerated energy production. We support the concept of a revolving fund which can assure the Southern states flexibility to help mitigate the impacts associated with energy development.

F-12. NATIONAL ENERGY POLICY IMPLEMENTATION (1990)

BACKGROUND

The current crisis in the Middle East marks the fourth time since 1973 that American energy producers and consumers have experienced volatile crude oil and products price changes and supply disruptions.

In every instance, such price changes and supply disruptions have occurred as a result of actions taken by one or more crude oil exporting countries in and around the Persian Gulf area.

The United States currently consumes some 17 million barrels per day of crude oil and products, over 50 percent of which is imported into the United States. Reasonable estimates indicate that the level of imports will exceed 65 percent of needs by the year 2000 and overdependence on foreign sources of energy is not in the best interest of the economy of the United States.

In December 1988, the National Governors' Association unanimously adopted a national energy policy statement which advocated a balanced approach to energy efficiency, alternative fuels, expanded production of existing energy sources and environmental protection.

RECOMMENDATIONS

The Southern Governors' Association hereby affirms its support of the principles contained in the National Governors' Association energy policy and urges both the Administration and the Congress to immediately adopt and implement such a policy to reverse the many years of energy policy neglect and drift.

SOUTHERN LEGISLATIVE CONFERENCE,
Atlanta, GA, August 16, 1991.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR JOHNSTON: As Chairman of the Southern Legislative Conference Energy Committee, it is with a sense of great urgency that I forward to you a policy position adopted by the Conference at our annual meeting in New Orleans, Louisiana, July 20-24. The position taken by the Conference reflects, in large part, the consensus of the South and represents a very broad cross-section of southern legislative perspectives on issues critical to both the South as a region and to the nation.

With respect to immediacy of action, our position on a national energy policy is of particular importance, and we urge you to act on our behalf when these issues come before Congress and other agencies of the federal government. A comprehensive national energy policy that reduces dependence on potentially unreliable foreign sources of oil through a balanced program of energy conservation and efficiency improvements, research and development of renewable and alternative energy sources, and increased production and use of domestic energy resources in a manner which protects public health, safety, and the environment is strongly encouraged.

As a member of our southern delegation, I urge you to review this policy position. The Southern Legislative Conference, a legislative tradition in the South since 1947, demonstrates a cohesiveness not found in other regions of our country, and clearly represents the voice of the South.

On behalf of the Conference, I respectfully urge your consideration of, and prompt action on, this policy position and request your support on this issue.

With warm personal regards, I am

Sincerely yours,

DELEGATE JAMES ALMAND,
Virginia Energy Committee Chairman.

SOUTHERN LEGISLATIVE CONFERENCE

5. PROPOSED POLICY POSITION—NATIONAL ENERGY POLICY

Background:

The development and implementation of a comprehensive and balanced national energy policy is crucial in recognizing that the nation's economy and security depends upon adequate energy resources at reasonable prices. The oil embargoes of the 1970s demonstrated our vulnerability to over-reliance on foreign resources. More recently, the Middle East situation further highlighted the need for a more efficient, less vulnerable, and environmentally sustainable energy future—without over-reliance on any single energy resource—to avoid a future "energy-crisis" and the contribution imported oil has made to the excessive trade balance which is adding in excess of 40 percent to the already staggering U.S. trade deficit.

Recommendation:

The Southern Legislative Conference supports and urges the U.S. Congress to adopt a comprehensive national energy policy that reduces dependence on potentially unreliable foreign sources of oil through a balanced program of energy conservation and efficiency improvements, research and development of renewable and alternative energy sources, and increased production and use of domestic energy resources in a manner which protects public health, safety, and the environment.

Adopted by the SLC Energy Committee, July 21, 1991. Sponsored by James Almond, Virginia.

SOUTHERN STATES ENERGY BOARD,
Norcross, GA, September 26, 1991.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: A major component of this nation's energy security is our diversity of energy resources. It is, therefore, important that our country maintain access to all energy sources. Historically, the Southern States Energy Board has supported the use and development of safe nuclear energy as a vital component of the national energy program.

Congress has mandated the United States Department of Energy to identify the most suitable location for a permanent repository for spent nuclear fuel. The safe management of radioactive waste is clearly a matter of national concern, and one that must be addressed with the full cooperation of the federal government and the states. A long term solution that ensures protection of our citizens and the environment requires a spirit of cooperation. The Southern States Energy Board urges adoption of policies to expedite the characterization of a potential disposal site while acknowledging the powers of the potential host state to protect its natural resources.

A national energy strategy should include reform of nuclear plant licensing. Developed over 35 years ago, the current licensing system is inefficient and must be reformed to

respond to the needs of the public and the electric utility industry.

A licensing process that resolves all safety issues related to design, construction, and operation of nuclear plants, including emergency preparedness should be established. This process should take place in an open forum to provide for public participation in the design, siting, and certification of a proposed plant.

The Senate has made significant progress in fashioning a bipartisan, comprehensive energy package. You and your colleagues are encouraged to move quickly to bring this legislation up for debate.

Sincerely,

DAVID WALTERS,
Governor of Oklahoma and Chairman, Southern States Energy Board.

SOUTHERN STATES ENERGY BOARD,
Norcross, GA, October 8, 1991.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: As you know, my State of Oklahoma is a major supplier of our domestic energy resources. I am writing to you, however, in my capacity as the Chairman of the Southern States Energy Board, the lead Governor on Energy and Environment for the Southern Governors' Association and as Chairman of the 35 state Interstate Oil and Gas Compact Commission to urge your immediate consideration of legislation to forge a comprehensive, balanced national energy strategy.

It has now been over two years since the debate on a national energy strategy began. In that same period, we have been reminded of our vulnerability in the energy in the energy area, and of our need to develop fully all domestic energy resources while at the same time working to improve energy efficiencies.

As a nation, we must move quickly to act on a comprehensive, balanced plan for ensuring the long-term energy security and, thus, economic vitality of our people. We must look at all forms of energy, fossil (coal, natural gas and oil), nuclear power, renewable energy and conservation to meet our energy needs. The quick fix, piecemeal approach will no longer work in developing our national energy plans.

The Senate Committee on Energy and Natural Resources has made significant progress in fashioning such a bipartisan, comprehensive package. We do not agree with all of the provisions of that bill, but we do feel that the debate must continue on the Senate floor.

We urge expeditious action on a comprehensive, balanced national energy strategy in this session of Congress.

Sincerely,

DAVID WALTERS,
Governor of Oklahoma, and Chairman, Southern States Energy Board.

UNITED STATES CONFERENCE OF MAYORS.

Energy Resolution adopted by full membership June 1991.

NATIONAL ENERGY POLICY

(1) Whereas, the Nation's economic and national security depends on adequate energy resources at reasonable prices; and

(2) Whereas, the oil embargoes of the 1970's demonstrated our vulnerability to over-reliance on foreign oil. More recently the Middle East situation highlighted again the need for a national energy policy; and

(3) Whereas, national over-reliance on any single energy resource has the potential to lead to a future "energy crisis,"

(4) Now, therefore, be it resolved that The United States Conference of Mayors supports and urges the U.S. Congress to adopt a comprehensive and balanced national energy policy that reduces dependence on potentially unreliable foreign sources of oil through a balanced program of energy conservation and efficiency improvements, research and development of renewable and alternative energy sources, and increased production and use of domestic energy resources in a manner which protects public health, safety, and the environment.

STATE OF NORTH DAKOTA
Bismarck, ND, September 30, 1991.

Hon. QUENTIN BURDICK,
U.S. Senator, Washington, DC.

DEAR QUENTIN, Attached is a copy of the Western Governors' Association resolution relative to the National Energy Security Act (NES). Note that I was a cosponsor and feel very strongly about it.

I hope you will be able to support S. 1220 with the modifications suggested by the resolution, e.g., an oil import fee.

Let me know if there is anything I can do.

Sincerely,

GEORGE A. SINNER,
Governor.

WESTERN GOVERNORS' ASSOCIATION,
RESOLUTION 91-004
Rapid City, SD, July 23, 1991.

Sponsors: Governors Sinner and Sullivan.

Subject: The National Energy Security Act of 1991.

A. BACKGROUND

1. The National Energy Security Act of 1991 was introduced in April (as S. 341) by Senators Bennett Johnston (D-LA) and Malcolm Wallop (R-WY) and reported in June 1991 as S. 1220 by the Senate Energy and Natural Resource Committee.

2. S. 1220 provides the legislative framework for a comprehensive, balanced national energy strategy.

3. The National Energy Security Act of 1991 promotes domestic energy development by:

a. Promoting domestic oil and gas development.

b. Promoting increased use of natural gas.

c. Encouraging the use of coal and promoting the development of advanced coal-based technologies.

d. Partially relaxing unnecessary regulatory barriers that impede construction of new natural gas pipeline capacity.

e. Relaxing the economic regulation of the sale of natural gas for use in transportation vehicles.

f. Directing the Department of Energy to establish a program that encourages the use of domestically-produced alternative fuels.

g. Providing government research and development funds to investigate economically viable conservation measures.

h. Reforming the Public Utility Holding Company Act of 1925 to encourage the development of independent electric generating projects.

i. Expanding the authority of the President and Department of Energy to enlarge and fill the Strategic Petroleum Reserve.

j. Authorizing oil and gas exploration and development in the Coastal Plain of the Arctic National Wildlife Refuge (ANWR), considered by the Department of the Interior to be the best onshore prospect in North America for the discovery of substantial amounts of crude oil.

4. Markets are efficient mechanisms to increase conservation and production, and reduce imports.

B. GOVERNORS' POLICY STATEMENT

1. Greater emphasis must be placed upon the development of sound domestic energy self-sufficiency policies, including development of domestic energy supplies, advancement of clean coal technology and aggressive new conservation programs to minimize the dangerous and increasing tendency of increasing imports of foreign energy products.

2. The development of sound, comprehensive energy policy is the preferred option when compared to international military and economic options.

3. A National Energy Strategy must consider state and regional differences and provide for basic consumer protection.

4. Alternative fuels development and energy conservation must play increasingly important roles in our nation's energy future, and the National Energy Strategy must address the need for policy and technology advancements for this energy source.

5. The National Energy Strategy must address the development of a full range of cost-effective alternative energy strategies that would reduce or minimize air pollution and its impacts, particularly in the twenty-five worst urban areas.

6. Conservation and alternative fuels alone cannot meet America's energy needs, but must be supplemented by new domestic supplies of conventional energy resources including oil, natural gas, and coal. This includes development in some areas currently restricted, given sound environmental management.

7. S. 1220, as reported by the Senate Energy and Natural Resources Committee, provides a sound legislative framework to begin the development of a comprehensive and balanced national energy strategy.

8. Other measures not currently a part of S. 1220, such as a guaranteed floor price for oil through an oil import fee, should also be included in the National Energy Strategy, with the bulk of the revenues from such a fee to be used for mass transit. The remainder of the revenues should be used for conservation efforts and research and development on environmental safety programs for energy.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. WGA staff shall transmit copies of this resolution to the Secretary of the U.S. Department of Energy, the western congressional delegation, and to the appropriate congressional committee chairmen and ranking minority members.

2. WGA staff shall closely monitor this legislation and other related energy bills, and to inform governors on policy and program implications for western states.

3. WGA staff shall inform the governors of key debates and decision points for the National Energy Strategy so western governors can actively participate in the development of this strategy.

WESTERN LEGISLATIVE CONFERENCE

PROPOSED RESOLUTION NO. 91-3-U—NATIONAL ENERGY POLICY

(Urging Congress to Adopt a National Energy Policy)

(Introduced by the Environment and Resource Management Committee)

Whereas, increasing dependence on imported energy products and the lack of a national energy policy are jeopardizing the security and economic competitiveness of the United States; and

Whereas, the development of sound, comprehensive energy policy is the preferred option when compared to continued reliance on foreign imports; and

Whereas, cost-effective options exist that could significantly reduce energy demand; and

Whereas, technologies are available today, or can be developed, that would provide new energy supplies or energy savings; and

Whereas, by promoting conservation and efficiency technologies such as solar, wind, geothermal, ethanol and other renewable fuels derived from biomass to first priority status in a national energy policy, the volume of carbon dioxide released into the atmosphere in coming decades could be sharply reduced; and

Whereas, conservation and alternative fuels alone likely will not meet all of the country's energy needs, but must be supplemented by new domestic supplies of oil, natural gas and coal; and

Whereas, domestic oil reserves are being rapidly depleted, and the coastal plain of the Arctic National Wildlife Refuge is expected to contain significant oil reserves;

Now, therefore, be it

Resolved, That the Western Legislative Conference of the Council of State Governments urges the Congress to adopt a national energy policy emphasizing energy conservation and efficiency improvements, research and development of renewable and alternative energy sources and technologies, and increased production of domestic energy resources in a manner that enhances the quality of public health, safety and the environment.

MARITIME TRADES DEPARTMENT,
Washington, DC, October 15, 1991.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP. It is my understanding that the Senate will be taking up S. 1220, the National Energy Security Act of 1991, later this week. On behalf of the Maritime Trades Department, AFL–CIO, I wish to urge your strong support for the measure, keeping intact those sections pertaining to the Arctic National Wildlife Refuge (ANWAR).

Over the last year, the events in the Persian Gulf have served as a stark reminder of America's dangerously high dependence on foreign sources of energy. This drain of petrodollars has dire implications for both our national security and our economy, as billions of dollars continue to flow overseas. S. 1220 takes some important steps in reducing that dependence by implementing a long-range comprehensive energy plan that strikes a balance between productions, conservation and new alternative energy resources.

One key action is the opening of ANWAR to oil exploration and development. All indications suggest that ANWAR holds the promise of dramatic yield potential. Recent advances in drilling technology combined with the positive experience of Prudhoe Bay production offer compelling evidence that careful exploration and development can be carried out without significant risk to the Arctic environment.

In order to derive full benefit from the ANWAR provision, S. 1220 must retain language barring the export of any oil extracted from the refuge. To eliminate this language would strip from the bill the entire rationale for opening ANWAR: energy independence. Because American consumption far outpaces domestic production, every barrel of oil sent abroad would have to be replaced with another barrel, imported from such demonstrably unstable parts of the world as the Persian Gulf.

Additionally, domestic retention of ANWAR oil would boost our economy and national security by providing much-needed support to the U.S.-flag merchant marine and shipyards. Newly built double-hull tankers would add to and replace the domestic trade tanker fleet, of which almost half is even now engaged in the Alaska trade, boosting both shipboard and shoreside employment, with the latter also helping to create and support the infrastructure needed to extract and transport the ANWAR oil. In turn, the Military Sealift Command would enjoy an expanded base of vessels and the trained seafarers needed to man them as a potential sealift resource during such emergencies as Operation Desert Shield/Desert Storm.

S. 1220, with the ANWAR language reported out of committee, offers the nation a realistic and balanced approach to solving its complex and serve energy problems. The MTD urges that you give it your strong support.

Sincerely,

MICHAEL SACCO,
President.

NATIONAL MARINE ENGINEERS' BENEFICIAL ASSOCIATION,
Washington, DC, October 16, 1991.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP. On behalf of the more than 50,000 members of the National Marine Engineers' Beneficial Association, representing licensed and unlicensed merchant mariners aboard U.S.-flag vessels, I urge you to support S. 1220, the National Energy Security Act of 1991.

We are also strongly in favor of Title VII of S. 1220 which would open up a small portion of the ANWR area to oil exploration and development. ANWR development is extremely important to the future of America's maritime industry and the jobs of those who serve on its ships. ANWR oil offers years of potential cargoes for a fleet that otherwise would shrink alarmingly as Prudhoe Bay output falls off. Not only would S. 1220 provide stringent environmental controls for ANWR development, but the ANWR title also ensures that ANWR oil will be used for domestic consumption only and not for exports—an essential provision.

Our nation will of course, always require some oil imports. But opening the ANWR area and using it to reduce imports, in conjunction with continued efforts to conserve, will enable our nation to keep these imports at prudent levels. Any other course would only diminish seriously our national security and political and economic freedom of action—assets that are vital in an increasingly fragmented and changing world.

America needs a national energy strategy and a plan for action. We wholeheartedly support S. 1220. It is a reasonable and balanced compromise. Above all, it is a prudent and necessary step for our nation's future. The time to act is now, not ten years from now. We strongly urge your support for S. 1220 as a whole and Title VII, ANWR development, in particular.

Sincerely,

C.E. DEFRIES,
President.

AMERICAN MARITIME CONGRESS,
Washington, DC, October 16, 1991.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

DEAR SENATOR WALLOP: On behalf of the American Maritime Congress, an association representing nearly all major U.S.-flag vessel operating companies, I urge you to support S. 1220, the National Energy Security Act of 1991. We also urge you to support Title VII of the Act which authorizes oil exploration and development in the ANWR area.

The National Energy Security Act of 1991 is a balanced, reasonable, and constructive plan to create a national energy policy for the 1990's and beyond. We believe that such a plan is a necessity for our nation. Essential to this plan is oil exploration and development in ANWR. Our country simply cannot afford to lock away an oilfield of this potential magnitude in wilderness forever, particularly when it is clear that development can proceed under careful conditions with minimal harm to the environment.

We support ANWR development as well because it is vital to the U.S.-flag tanker fleet. The Prudhoe Bay area fields are now declining, and, as they do, the U.S.-flag tanker fleet which carries this oil to the rest of the United States will shrink. ANWR oil will offer not only improved energy security but decades of new cargoes for this fleet which otherwise would shrink alarmingly. Delay is also not a prudent alternative. The more ANWR is delayed, the more there will be a gap between Prudhoe Bay's decline and ANWR's startup. Valuable sealift tankers and crews would be lost forever.

In providing for ANWR exploration and development, S. 1220 also explicitly places restrictions on the export of any ANWR oil. We support these restrictions strongly. They make clear that ANWR oil will be for American consumers and American energy security.

We strongly urge you to support S. 1220 when it is considered by the Senate.

Sincerely,

J.P. WALTERS,
Executive Director.

NATIONAL GRANGE,
Washington, DC, October 21, 1991.

Hon. MALCOLM WALLOP,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR WALLOP: The U.S. Senate will soon consider S. 1220, "The National Energy Security Act of 1991". On behalf of the 325,000 farmers and rural residents who are members of the National Grange, I strongly urge you to help establish a comprehensive national energy strategy by supporting this measure.

As a comprehensive energy proposal, all aspects of S. 1220 are important to our total national energy strategy. However, I would like to bring three important provisions to your attention that particularly deserve your support: (1) new CAFE standards that balance the best available fuel saving technologies with other legitimate automotive concerns of consumers; (2) increased use of alternative fuels, such as ethanol; and (3) exploring and developing the oil and natural gas resources of the Arctic National Wildlife Refuge (ANWR) in an environmentally sound manner.

Title III of S. 1220 directs the Secretary of Transportation to adopt new automotive CAFE standards for cars and light weight trucks. This bill would require the Secretary to establish these new standards using the maximum applicable fuel saving technologies while at the same time, balancing the consumers' legitimate concerns with vehicle performance, size and interior space, environmental requirements, and safety.

The National Grange supports adopting new CAFE standards that accommodate the

consumers' legitimate automotive concerns. We oppose establishing new arbitrary CAFE standards through the legislative process. Farmers and rural consumers are dependent on their vehicles for transportation as well as hauling and towing. They have legitimate concerns with performances and safety. The CAFE standards established by legislative action would ignore these legitimate concerns in favor of one overriding goal—fuel economy. On the other hand, the regulatory process that is already embodied in this bill would allow our nation to make significant increases in fuel economy while assuring that the legitimate concerns of consumers in general and rural consumers in particular are addressed. The National Grange believes that balancing fuel economy with the consumers' concerns is the proper policy to adopt.

Title IV provides for federal agencies, as well as appropriate states, municipalities, and private fleets of vehicles, to acquire a substantial number of vehicles that use alternative fuels. It also requires the Secretary of Energy to establish a program that will promote the development and use of domestically-produced replacement and alternative fuels, such as ethanol. As our nation seeks to reduce our dependence on imported energy, alternative fuels that are derived from agricultural sources, such as ethanol, will increasingly offer safe, secure, and renewable energy options for our nation. We strongly urge your support for this provision.

Title VII authorizes competitive exploration and production of the oil and gas resources of the Coastal Plain region of the Arctic National Wildlife Refuge (ANWR) in northern Alaska in an environmentally sound manner. Most experts in government and private industry believe that the ANWR, which is located near the famous Prudhoe Bay oil fields, offers the last best chance of finding large deposits of oil and natural gas on land in the United States.

Domestic production of oil in the United States is now down to only seven million barrels of oil per day. This represents a 5.3% decline from last year and a 20% decline since 1986. In addition, our nation's oil imports have jumped from 33% of our oil consumption in 1986 to over 51% of our oil consumption in 1990. Imported oil costs the United States an average of $50 billion a year and accounts for 45% of the United States' annual trade deficits with other nations.

Energy costs, particularly expenses that are related to petroleum products, constitute one of the largest production costs on America's farms. However, cost is not the farmers' only energy related concern. Nature is an unyielding task master. The cycles of production on a farm demand that reliable energy supplies be available when the farmer needs them. Planting, harvesting, and milking are examples of farm activities that cannot be postponed in order to accommodate unreliable foreign energy supplies.

The National Grange supports exploring and developing the ANWR's Coastal Plain in an environmentally sound manner. In addition, over 1,000 Grange chapter across the nation have sent postcards to their Senators asking for their support of the ANWR this year. I strongly urge you to adopt the provisions of S. 1220 that call for developing the oil and gas resources of the ANWR's Coastal Plain in an environmentally sound manner.

At the National Grange's 124th Annual Convention, the delegates adopted several resolutions that called for a comprehensive national energy policy that would include increased conservation, greater use of alternative energy sources (such as ethanol), and continued availability of traditional sources of domestic energy. S. 1220 is the first serious legislative attempt in more than a decade to address our nation's energy problems in a comprehensive manner. As such, S. 1220 in general and Titles III, IV, and VII in particular deserve your strong support.

Thank you for this opportunity to express the views of the National Grange on S. 1220. I would appreciate learning your views on this issue.

Sincerely,

ROBERT E. BARROW,
National Master.

THE AMERICAN LEGION,
Washington, DC, October 24, 1991.

Hon. MALCOLM WALLOP,
Ranking Minority Member, Senate Energy and Natural Resources Committee, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR WALLOP: At the 73rd National Convention of The American Legion, three energy related resolutions were unanimously adopted by the delegates.

Enclosed are copies of those resolutions specifically identifying the Legion's areas of concern. The resolutions seek the development of a national energy strategy and the development of natural resources. They also support oil exploration on the Coastal Plain of the Arctic National Wildlife Refuge in Alaska.

The American Legion appreciates your interest in these vital issues. We urge your consideration of our recommendations.

Sincerely,

PHILIP RIGGIN,
Director, National Legislative Commission.

SEVENTY-THIRD NATIONAL CONVENTION OF THE AMERICAN LEGION, PHOENIX, AR, SEPTEMBER 3, 4, 5, 1991

Resolution No.: 25.

Subject: Development of natural resources.

Committee: National security.

Whereas, the development and proper use of the resources of the nation is essential to the technological advancement of the general welfare, utilizing the material wealth and consequently providing employment and products for a high quality of life; and

Whereas, protection of the environment is also necessary to the long term use of the physical resources yet inordinate concern for such protection as evidenced in the massive publicity and educational programs designed to indoctrinate the public with such concerns is in fact detrimental to technological advancement; and

Whereas, it thus becomes necessary to restrain unbridled environmentalism due to its inhibiting influence on the general welfare and progress of the nation; now, therefore, be it

Resolved, by the American Legion in National Convention assembled in Phoenix, Arizona, September 3, 4, 5, 1991, That The American Legion proposes that the policies of the Nation emphasize the development and use of natural resources with due concern being given to the protection of the environment but not to the detriment of technological progress, and that educational emphasis be placed on the scientific, research and technical areas necessary to the development and progress of the nation.

SEVENTY-THIRD NATIONAL CONVENTION OF THE AMERICAN LEGION, PHOENIX, AR, SEPTEMBER 3, 4, 5, 1991

Resolution No.: 65.

Subject: Oil exploration on the Arctic National Wildlife Refuge coastal plain.

Committee: National security.

Whereas, The American Legion is an organization of War Veterans dedicated to foster and perpetuate one hundred percent Americanism, promote peace, devote efforts to mutual helpfulness, and safeguard the principles of justice, freedom and democracy; and

Whereas, only recently, United States Armed Forces have been employed, in part, to assure availability of oil and gas resources for domestic use; and

Whereas, over 50% of the oil used in the United States is imported from foreign sources; and

Whereas, said foreign sources of oil may be seized by hostile hands or otherwise become unavailable; and

Whereas, no diminution of usage of oil and gas is in the immediate offing; and

Whereas, loss of availability of viable gas and oil supplies in any appreciable amount would result in substantial economic detriment to the health and welfare of the peoples of the United States; and

Whereas, preliminary exploration has shown probable recovery of 1.5 million barrels of oil and gas per day for 20 to 30 years from development of the "Coastal Plain," part of the Arctic National Wildlife Refuge (ANWR), Alaska; and

Whereas, the area of the ANWR contemplated for development approximates 13,000 acres or .08% of ANWR; and

Whereas, the Natives subsisting on the wildlife in the area advocate oil exploration in the Coastal Plain as partial return from the taking by the government of lands historically "owned" by the Natives; and

Whereas, the Natives relying on the area for their subsistence have assured their subsistence will not be adversely affected by careful development; and

Whereas, development of "Prudhoe Bay" for oil and gas under essentially the same environmental conditions has been accomplished commensurate with protection of the environment; and

Whereas, in the interest of National defense, this resource should be developed as quickly as possible; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Phoenix, Arizona, September 2, 4, 5, 1991, that The American Legion supports and advocates the development of oil and gas resources in the Coastal Plain of the Arctic National Wildlife Refuge (ANWR), Alaska.

SEVENTY-THIRD NATIONAL CONVENTION OF THE AMERICAN LEGION, PHOENIX, AR, SEPTEMBER 3, 4, 5, 1991

Resolution No.: 289.

Subject: National energy strategy.

Committee: National security.

Whereas, as a nation, our continued reliance on foreign sources of energy places our national security interests and economic well-being at risk; and

Whereas, war in the volatile Persian Gulf region has brought into sharp focus our heavy dependence on imported foreign oil which necessitates a re-evaluation of United States long-range energy policy; and

Whereas, during the 1973 oil embargo, the United States embarked on an energy policy that was later abandoned in the early 1980's due to short-sighted decisions and the comparatively cheaper prices of Persian Gulf oil imports; and

Whereas, the United States continues to import nearly 40 percent of its oil while U.S. domestic production has dropped to its low-

est level in 24 years thus further compounding our foreign trade deficit at a time when our energy demands continue unabated; and

Whereas, since 1975, The American Legion has taken the lead in adopting and presenting energy-related mandates which have addressed energy conservation and efficiency, energy recovery and development, and alternative sources of energy which collectively form the nucleus of a comprehensive national energy strategy; now, therefore, be it

Resolved, by The American Legion in National Convention assembled in Phoenix, Arizona, September 3, 4, 5, 1991, that The American Legion urges the Administration and the Congress to implement a long-term national energy strategy which calls upon the Federal and State Governments as well as the private and public sectors to work in unison to increase domestic energy sources while reducing energy demands by instituting a broad array of actions including: increasing the efficiency of our transportation system; increasing U.S. petroleum production in an environmentally sensible manner; maintaining adequate strategic reserves; building new nuclear energy plants; further deregulating the natural gas industry; and developing alternative sources of energy; and, be it further

Resolved, that The American Legion also urges the Congress to provide funding for such incentives as individual and corporate tax credits for conversion of oil to natural gas equipment; alternative fuel research and development; design advanced nuclear energy plants; new oil and gas exploration; subsidies for the production of liquid fuels from coal, shale and natural gas; and that a sliding scale oil import fee be developed as a further incentive to reduce our demand for foreign supplies while encouraging the development of domestic sources; and, be it further

Resolved, that The American Legion urges Congress and the industrial sector to accelerate the research, development and production of such alternative fuels as ethanol, methanol, reformulated gasoline, tar sands and oil shale; promotion of solar, geothermal, solid waste recycling, and clean coal technologies; and to reform licensing and regulatory procedures to assist the continued development and deliverability of nuclear energy, hydroelectric, natural gas and oil resources.

SOUTH WEST
ENERGY COUNCILS,
September 13, 1991.

Hon. MALCOLM WALLOP,
Washington, DC.

DEAR SENATOR: Last week the South/West Energy Council held its 1991 Annual Meeting and voted unanimously to adopt the attached policy statement relative to Senate debate of the Johnston-Wallop bill (S1220). It was pleased to propose the policy statement, which was co-authorized by Louisiana Senate President Samuel B. Nunez, Jr., another member of the Executive Committee.

During the Annual Meeting, the Council also changed its name from the South/West Energy Council to the Energy Council. As you know, the Energy Council consists of legislators from nine energy producing states. Also enclosed is a copy of our current Executive Committee Director.

It is important to note that this policy statement was passed unanimously by both the Executive Committee, as well as the full Council. That is, I think, a measure of the significance which we attach to your legislation. We hope this expression of support is helpful in bringing the bill to the Senate floor.

Sincerely,

MICHAEL B. ENZI,
Wyoming House of Representatives,
and Executive Committee Member

POLICY STATEMENT RELATIVE TO SENATE DEBATE OF THE JOHNSTON-WALLOP BILL (S1220)

Background In December of 1988 the South/West Energy Council (predecessor to the Energy Council) presented then President-elect George Bush with a National Energy Strategy proposal. The result of six month project, S/WEC's proposal was billed as a "starting point for federal efforts."

In 1989 the Bush Administration undertook a National Energy Strategy development effort. The basis laid by the Administration has been utilized by two leaders in the Senate. Senators J. Bennett Johnston and Malcolm Wallop have proposed the National Energy Security Act of 1991, which was passed by the Senate Energy and Natural Resources Committee on May 23, 1991.

The Johnston-Wallop bill (S1220) is in many ways similar to the S/WEC proposal. In some cases it addresses issues on which the Council has not taken a position (e.g. Public Utilities Holding Companies Act reform); further, it does not address some of the Council's specific proposals (e.g., a Pan American Energy Alliance). However, the Johnston-Wallop bill is a comprehensive piece of legislation which will serve as a useful basis for congressional debate of energy policy legislation. The next logical step in Congressional consideration of such a policy is debate of the Johnston-Wallop bill (S1220) on the floor of the U.S. Senate.

Policy Statement The Energy Council urges the U.S. Senate to bring S1220 to the floor for consideration as soon as possible, following the August 1991 recess. The Energy Council has not taken a position on every element of S1220 (e.g. PUHCA). However, the Energy Council finds the Johnston-Wallop bill to be the most comprehensive proposal of federal policy addressing energy, which is so essential to assuring a viable economy, a healthy environment, a strong national defense and sustaining the American way of life. The Energy Council finds S1220 to be an excellent starting point for debate.

Disposition This policy statement, adopted unanimously by the Energy Council on September 8, 1991 will be distributed to the Majority Leader of the U.S. Senate and the Congressional Delegations of the member states of the Energy Council.

LORI CAMERON,
Secretary.

MEMBERS OF THE SOUTHWEST ENERGY COUNCIL

	Phone	Fax
Alabama:		
Sen. Ray Campbell	(205) 353–3102	
Sen. Earl F. Hilliard	(205) 731–7777	(205) 324–7589
Rep. Taylor Harper	(205) 242–7662	
Rep. Walter Penry, Jr	(205) 242–7711	
Alaska:		
Sen. Drue Pearce	(907) 562–2038	(907) 561–4194
Rep. Mark Boyer	(907) 465–3466	(907) 465–4565
Rep. Mike Navarre	(907) 262–7842	(907) 262–1881
Arkansas:		
Sen. William Moore, Jr.	(501) 863–8468	(501) 682–3479
Sen. Nick Wilson	(501) 892–4517	(501) 892–8794
Speaker-elect LL. "Doc" Bryan, Vice-Chairman	(501) 968–1475	(501) 682–3479
Rep. Lipud George	(501) 489–5641	
Colorado:		
Sen. Tilman Bishop	(303) 248–1273	(303) 248–1903
Sen. Pres. Ted Strickland, Chairman	(303) 866–3342	(303) 866–5319
Rep. Lewis H. Entz	(719) 754–3750	
Rep. Scott McInnis	(303) 945–0132	(303) 945–4955
Louisiana:		
Sen. Oswald Decuir	(318) 365–2336	

MEMBERS OF THE SOUTHWEST ENERGY COUNCIL—Continued

	Phone	Fax
Sen. Pres. Samuel B. Nunez, Jr.	(504) 279–5551	(504) 278–7495
Rep. John Siracusa	(504) 384–0703	(504) 342–8336
Rep. Arthur Sour, Jr.	(318) 226–9332	
New Mexico:		
Sen. Pres. Manny Aragon	(505) 842–1324	
Sen. Joseph Harvey	(505) 393–6957	
Rep. Richard T. Knowles	(505) 623–1344	
Rep. Robert S. Light	(505) 887–2566	(505) 887–1146
Oklahoma:		
Sen. Larry Dickerson	(918) 647–8606	(405) 521–5507
Sen. Billy Mickle	(405) 924–1151	(405) 924–1154
Rep. Larry Adair	(405) 557–7394	(405) 557–7351
Hse. Spkr. Glen Johnson	(405) 521–2744	(405) 557–7445
Texas:		
Sen. Gene Green	(713) 447–2122	(713) 447–7129
Sen. John T. Montford	(512) 463–0128	(512) 463–0326
Rep. Dan Shelley	(512) 463–0520	(713) 446–4186
Rep. Sylvester Turner	(713) 650–3688	
Wyoming:		
Sen. Terry Guice	(307) 745–8289	
Sen. Pres. Diemer True	(307) 266–0272	
Rep. Barbara Cubin	(307) 234–3482	
Rep. Michael Enzi	(307) 682–4235	(307) 687–0029

Mr. WALLOP. Let me go through a couple of them. One is the Administrator of the Environmental Protection Agency, certainly no patsy to the environment. One is the Secretary of Defense, my former colleague, Dick Cheney, who says the Department of Defense is one of the major consumers of energy, and states the necessity for national security to have this policy.

Here is one from Presidents Carter and Ford. Here is one from the Governor of Iowa to the Senator from Iowa, now campaigning for President, Senator HARKIN.

Here is one from the National Governors Association, the Secretary of Energy, and the Maritime Trades Department of the AFL–CIO; and the MEBA; the American Maritime Congress; the National Grange; the American Legion, and others.

Just out of interest, Mr. President, the number of States in here are the Associated Industries of Arizona, Florida, Massachusetts, Missouri, and Oregon; and the Business Council of Alabama. Interestingly enough, to the Northeastern Senators who are opposing the Coalition of Northeastern Governors as well as the Southwest Energy Council; Florida Citrus Mutual; Florida Gas Transmission Company; Florida Petroleum Council; Florida Phosphate Council; the Florida Sugar Cane League; Indiana, Iowa, Maryland, Michigan; National Association of Counties; National Conference of State Legislatures; and National League of Cities.

Mr. President, this is a bill that has broad public support in America if not in the Senate amongst those conducting their affairs by direction of the environmental community.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. The President, I yield myself a minute and a half.

Mr. President, the previous speaker indicated that former President Jimmy Carter favors this legislation. I would now like to read a letter dated October 15, from President Carter to Senator LIEBERMAN concerning this bill.

To Senator Joseph Lieberman:

I understand that a letter endorsing a national energy policy, signed jointly with President Gerald Ford and dated September 30, 1991, is being used to promote legislation that would open the Arctic National Wildlife Refuge to full scale oil and gas development. This is a totally erroneous and improper interpretation of my support for energy legislation that would make "the best use of our own energy resources" and deplore the fact that "we continue to waste too much energy."

I want it made clear to all concerned that I do not support any legislation that would destroy the integrity of the Wildlife Refuge in order to obtain a relatively miniscule amount of oil, which would be extracted and consumed for just a few years in lieu of imposing much more effective conservation measures in our nation. Just a small increase in the mandated efficiency of automobiles would contribute much more to reduce dependence on imported oil than would the permanent destruction of this precious and irreplaceable resource in Northern Alaska.

My hope is that all members of the House and Senate will refuse to support any legislation that would permit oil or gas exploration in the Arctic National Wildlife Refuge.

Sincerely,

JIMMY CARTER.

Mr. President, I yield 5 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, we have had a very contentious morning and reasonably so. This is an extremely important issue which we are facing today. But I want to let my colleagues know there is an answer to this problem which does not require all the contentious arguments but is a sound policy which will get us to energy independence. I will not vote for the motion to proceed because I feel we could sit down and work it out with this amendment that I have to offer and save the Senate an incredible length of time.

Let me tell my colleagues what this amendment does.

First of the all, I think we all agree that what we are here for is to get this Nation to a point where it can be energy independent, where it does not have to rely upon foreign sources in order to fuel its economy with the fuel that is necessary to do that.

Let me just show my colleagues, for instance, just to pique their interest, something that will work. I have a chart not prepared by Jim Jeffords or his information. It is a chart which came from information from the Department of Energy. I will talk more about that later. But let me show what it does.

This is our current policy up at the top. This is the national energy strategy of the administration. If we go to 1220, it would be 6.1 million barrels per day rather than the 7.1.

This is my bill down here, this green part. This is what the amendment I am offering will do. Notice that this one goes sharply, S. 1220 will stay level, and then shoot up. The only one that goes down and shows that we will be on a path to energy independence is the amendment that I will offer.

Just to give an idea and more credibility—everybody wants to know, is this guy crazy, does he have something here or not?—let me read from Jim McClure—my colleagues all remember Jim McClure, well-respected, conservative ranking Republican on the Energy Committee:

U.S. energy consumption will grow over the next decade. Two, domestic oil production will continue to decline. Three, our foreign oil dependency will increase. Four, there is some likelihood that there will be a significant supply of disruption before the nineties are over. Five, if there is a disruption, it will have severe consequences on our economy and society.

There is no dispute about these facts.

The last thing that Jim McClure did before he left this body was to endorse my bill that I put in which is now S. 716, which will be modified with this amendment to make it more workable. I think my colleagues will realize that Jim McClure knew what he was doing.

Second, for credibility, let me also let my colleagues know that the Department of Energy adopted a similar concept and prepared their documents, which we will show, and information which they had, and they went down to the White House and fought for this kind of a policy because they knew it was the only one that could get us to energy independence. They lost at the palace gates down there. They were turned down. But that ought to let everyone know there is reason for me to be here to give credibility to this amendment.

Third, the committee took up mine. A majority of the committee endorsed my bill, S. 716. They took it in committee—and I praise them for the consideration they gave it—and they adopted the skeleton, the definitions and the wording and all that, but then they carved out the heart and carved off the muscles and carved out the brain and changed it from a plan of action to a study. I want to make that into a plan of action again, and I will attempt to do that at the first chance.

Who is against it? It does not fight anybody. Whether you are for or against ANWR, this will work. Whether you are for or against Bryan, this will work. Whether you are for or against S. 1220 or any part of it, this amendment will make an energy strategy that will work.

So I do not fight with anybody. Anybody can vote for it except those who believe that the policy we are getting ourselves into, that OPEC and the oil companies say leave it in our hands and we will take care of you, if you want to go with them, yes, you should vote no because, to be honest, they are opposed to it. Why? Because they control the energy of this country. It is the oil companies that own the coal fields. It is the oil companies that own the natural gas. It is all of these that will be qualified to be a domestic source under that.

I will be back later this afternoon to give a more indepth discussion of this option and hope when this bill does come up, if it does, that my colleagues will support it.

I yield the floor.

Mr. JOHNSTON. Mr. President, I yield myself such time as I may require.

Mr. President, what we have seen this morning is the caricature of the Senate, as far as energy national policy is concerned, all over the map. We are told that hydro is the solution and yet when you try to get to hydro, you cannot build it anywhere in the United States.

We are told to go domestic but not coal because coal is too dirty. We are told to go domestic but not oil because we cannot depend on foreign oil and we need to get off oil dependence. We are told to go anywhere except that which is possible for this United States, and especially do not go nuclear.

Mr. President, what we have done in this bill is the only way that this country can put together an effective policy, and that is bring in all the disparate parts and to consider them simultaneously.

What we have done for all these 19 years is to have all these different committees try to put up bits and pieces of an energy policy and it always is beaten and it never works. That is why energy consumption is going up, that is why energy production is going down, and that is why it is going to continue to do so unless we change our way of doing things.

Mr. President, the noted oil economist Henry Schuler just wrote a really excellent piece in which he described America's present energy policy. It is a Saudi Arabian policy. As he points out, Saudi Arabia has unrivaled fuel resources and no prospect of defending itself. The United States has unrivaled defense resources and no prospect of fueling itself.

So the argument goes, I guess by the opponents, why not put the two together? Since they have the fuel and we have the defense, let us have this great marriage, as we did in the war in the gulf. It worked in the war in the gulf. It only cost 24 American lives, or whatever the figure was. That is not much unless you are one of them or one of their families. We bought 20,000 body bags. I am glad we did not need them, but that is what we had at risk.

Mr. President, the problem is we tried that before, three times. Back in the fifties we had a policy called the Baghdad Pact where we were going to have this kind of stituation with Iraq, and we know what happened. We gave them the arms and King Faisal was assassinated in 1958 and taken over by

Saddam Hussein, one of the worst despots in history.

We had that kind of policy with Libya in the 1960's. We gave them unrivaled tanks and guns. Wheelus Air Force Base was the largest Air Force base outside of the United States back in the 1960's and what happened? We were successful in defending Libya against Egypt which was preceived to be the enemy at that time, but we were not successful in defending them against the internal strife that brought Muammar Qadhafi and put him in as probably the second worst or maybe the worst person in the Middle East.

Then we tried it again in the 1970's, Mr. President, with Iran. We had a deal with the Shah of Iran where we gave him tremendous defense resources. We gave him airplanes; we gave him everything he needed. He was the powerhouse of the Middle East. He was, to use Jimmy Carter's words, on that last New Year's Eve before he was deposed, as I recall, "an island of stability in a sea of troubles." Yes, yes, Mr. President, and that is what we had our energy policy connected to—the Shah of Iran and we know what happened.

Is it not interesting those three countries with whom we had this kind of marriage, in three successive decades, we now have an embargo on importing oil from any of them? Our law of this Senate says you cannot get a drop of oil from Iraq, from Libya, or from Iran.

And now, Mr. President, we are told, in effect, by default, that it is OK to do it with Saudi Arabia. Do not get me wrong, I like the Saudis. We did well in our mutual defense with the Saudis in reclaiming the assets stolen by Saddam Hussein.

But Mr. President, how many times does it take us to learn that this Nation must have an energy policy that is made in America and not made in Saudi Arabia or not made in Baghdad or not made in Libya or not made in Iran? It has to be made in America.

And you are going to have to take some things such as nuclear energy, such as energy efficiency, such as alternative fuels, and deal with those issues.

Now, Mr. President, we are told: Do not consider this bill; send it back to all these disparate committees and something will come of it that is good.

We have been waiting for 19 years, Mr. President—19 years. The first energy crisis was almost 19 years ago, and at that time the gross national product went down by 2 percent. We had another one in 1979, and the gross national product went down by even more than that. And we had another one last year, Mr. President, when Americans got killed in the gulf.

It is time for a comprehensive, balanced, effective energy policy, and that is what S. 1220 is, and we ought to debate it in all its parts and consider it on its merits and not have a filibuster to stop the country from having an energy policy.

Mr. President, I ask unanimous consent that the statement by Henry Schuler be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OIL AND MUNITIONS: AN EXPLOSIVE MIX

(By G. Henry M. Schuler, Director, energy Security Program, Center for strategic and International Studies)

In the aftermath of the Persian Gulf crisis, many pundits and policymakers seem prepared to tie America's energy future to a "special relationship" with Saudi Arabia's al-Saud dynasty. Although the aspiring matchmakers acknowledge that there can never be a formal marriage, they urge a much more public cohabitation than has existed in the past. After all, the argument runs, the mutuality of interests is obvious—Saudi Arabia has unrivalled oil resources but no prospect for defending itself, while the United states has unrivalled military resources but no prospect for fueling itself—so why shouldn't both parties proclaim their commitment. Unfortunately, experience has shown that Middle eastern liaisons based on oil and defense ties eventually break-up in bitter acrimony.

Painful reminders of that axiom came almost like clock work until the most recent decade. The Baghdad Pact could guard the Iraqi throne and Western oil interests against Soviet aggression but not against a popular left leaning revolution that executed King Feisal in 1958. America's Wheelus Air base and Britain's El Adem armor depot could deter Egypt's President Nasser from attempting to seize the Libyan oil fields, but could not stop Lt. Muammar Qadhafi and a handful of Arab nationalists from overthrowing King Idris in 1969. Massive sales of sophisticated arms and large training missions could establish Iran as Washington's surrogate "policeman of the Gulf", but they could not protect the Shah from Islamic militants in 1979.

That alarming recitation makes it clear that U.S. assistance in deflecting external threats—whether through express defense commitments, air bases, prepositioned equipment, joint exercises, state-of-the-art arms sales, training support, or "trip wire" force presence—could not block internal upheaval. In fact, those external defense arrangements provided explosive fuel to be exploited by internal forces intent upon socioeconomic revolution, pan-Arab coup and/or Islamic upheaval. As for their efficacy in assuring U.S. access to Middle eastern oil, one need only observe that the successor governments have been so hostile to the United States that Washington currently bars unrestricted imports from each of the three countries: Iraq, Libya and Iran.

The United States was mercifully spared the demise of a Middle eastern oil friend during the 1980s (unless Egypt's relatively minor exports are enough to qualify the 1981 assassination of Anwar Sadat), but it would be foolhardy to conclude that special relationships linking oil and defense no longer provide tinder for domestic upheaval. While recognizing that precise parallels never exist, especially when separated by several decades, it is useful to examine the dynamics of the situation surrounding the special relationship entered into by the Kingdom of Libya with the United States and Great Britain.

The Libyan monarchy had its origins in the Sanusi Emirate of Cyrenaica, the eastern part of the country, and drew its support from the Sanusiyah Brotherhood of religious revivalists and the noble (saadi) bedouin tribes who represented the ethnically purest Arabs outside the Arabian Peninsula. Helped by Great Power maneuvering in the aftermath of World War II, this narrowly based and inward-looking dynasty was imposed on the more settled, worldly, and politicized people of Tripolitania, the western part of the country. Given that somewhat shaky claim to national legitimacy, every economic and political grievance represented a potential threat to the Sanusi monarchy. Although those grievances arose within Libya, Washington and London could not counsel internal reforms involving political representation, wealth distribution, societal change, dynastic feuding, and governmental corruption without raising palace hackles. Therefore, the monarchy's would-be protectors found it much less discomfiting to attribute the economic and political threats to external forces, specifically to Egyptian aggression and Nasserite subversion, which they could combat financially and militarily.

As if to proclaim the linkage between oil and defense, both Libyan-U.S. relationships had their roots in a July 1954 trip by Prime Minister Mustafa Ben Halim to the United States. Ben Halim spent part of his time in Washington, negotiating a 20 year lease for Wheelus Field, and part of his time in the "oil patch", listening to appeals for legislation that would favor American independent oil companies over the "Seven Sisters". Upon his return to Libya he introduced a Mutual Defense Assistance Agreement and a Petroleum Law that ended Britain's postwar domination of Libya and tied its fortunes more closely to American interests. (A less savory side of the defense-oil linkage was provided when President Eisenhower's Secretary of the Air Force, Harold Talbott, did a little "moonlighting" to assist promoter Wendell Phillips in obtaining concessions.)

During its relatively brief appearance on the world stage, the Libyan monarchy evidenced its general support for American oil interests—corporate and governmental—in many ways. The most prospective concessions went to American companies, to the dismay of BP, CFP and Royal Dutch Shell. Libya's willingness to calculate taxable income on the basis of realized price, rather than posted price, permitted Conoco and Marathon to penetrate the European refining/marketing sector and held down world oil prices. Although Libya joined OPEC, the monarchy's refusal to slow an unprecedentedly rapid growth in production fatally undermined OPEC's first effort to establish quotas in 1965 and met the exploding U.S. demand for low sulfur fuel oil required to meet new environmental legislation.

Libya's oil support was political and strategic as well as economic and commercial. When the Arab exporters imposed an embargo on the United States and other countries during the Six Day War of 1967, Libya nominally complied but rendered the destination restrictions moot by increasing overall production. Then, when Libyan oil workers struck in protest against that subversion of the Arabs' only political "weapon", the government imprisoned over 100 young technocrats. The availability of increased Libyan exports in the Mediterranean also weakened Egypt's attempt to gain leverage by refusing to open the Suez Canal for the transit of tankers from the Persian Gulf.

By 1969, Libya had become Britain's largest supplier and America's largest supplier from outside the Western Hemisphere (Libya exported 3 times as much oil as Saudi Arabia to the U.S.), but Washington and London had few concerns in light of the monarchy's extremely cooperative oil policies. In fact, Britain saw the Libyan oil fields as a "strategic reserve west of Suez" because HMG was confident that King Idris' avoidance of involvement in Middle Eastern politics would leave him on the throne long after the oil monarchs of the Gulf had departed the scene.

On the other side of the equation, the Kingdom's defense links were no less "special" than its oil links. Under the Anglo-Libyan Treaty of Friendship and Alliance, signed in 1953, Britain pledged to defend Libya's borders, to provide internal security assistance, and, in, a secret protocol, to protect the King's personal safety and (at least by implication) his throne. Whitehall backed its pledges with hardware, relocating half of the powerful 10th Armored Division to Cyrenaica when Nasser forced evacuation of Britain's Suez Canal base in 1954. Although the British Army ultimately reduced its troop levels to a mere company that would serve as a sort of "trip wire" while protecting King Idris, most of the armor remained at El Adem close to the Egyptian border. Lest Nasser fail to get that pointed message, British tank crews were deployed to man to prepositioned equipment for several months following the Egyptian inspired overthrow of Iraq's King Feisal in 1958 and regularly flew into El Adem for joint exercises with the Libyan Army throughout the 1960s.

The U.S.-Libyan Mutual Defense Agreement provided for American use of Wheelus Air Base and associated desert bombing ranges until at least the end of 1971. It was not only the sole U.S. air base in the Arab world following the forced evacuation of Dhahran in Saudi Arabia and Nousseur in Morocco, but also the largest base anywhere outside U.S. territory. Beyond its overt mission as a training facility for NATO's tactical fighter bombers and its secret role in SAC's strategic deployment plans, Wheelus offered the only air base for staging troops and equipment to the Middle East. It was not just on paper, for Libya accepted the Eisenhower Doctrine and permitted the use of Wheelus for deploying American forces to Lebanon in 1958. For all intents and purposes, the monarchy thereby fully aligned itself with America's strategic and regional containment policies.

Although air bases, and prepositioned armor would permit relatively rapid deployment of American and British forces, Egypt's Soviet equipped forces were near enough to require a more immediate Libyan defense capability, especially in the aftermath of Nasser's attempted take-over of Yemen. Besides, the sale of military equipment would offset growing expenditures for Libyan oil and spread escalating R&D costs. Accordingly, Washington and London encouraged Libyan aspirations for creating an air-sea-land defense capability and agreed to divide the training responsibilities—and sales proceeds—so that Britain got the navy and the U.S. got the air force while they competed for the contracts associated with a doubling of the ground forces.

Libya's military leaders had relatively modest air and naval ambitions, but their appetite for heavy tanks and sophisticated air defense systems was easily whetted. Anxious to resurrect a rapidly eroding defense industrial base, Britain was determined to win both contracts. With highest level support from HMG, the British Aircraft Corporation won a 1968 contract to sell state-of-the-art air defense systems including Rapier and Thunderbird missiles as well as associated radar and communications equipment. Priced at $365 million, it was not only the biggest international arms sale concluded up to that time, but it also offered high paying jobs in Libya for almost 1000 British "technicians" and tied Libya to an air defense strategy that would require future purchase of almost $1 billion worth of British fighter interceptors. In April 1969, Libya also contracted to purchase 188 Chieftain tanks for $60 million. Because this was Britain's main battle tank with a stabilized 120mm gun not previously available in any offensive Middle Eastern arsenal, Libya was required to pledge that the Chieftains would not be used in any future war with Israel.

Recognizing that an expanded Libyan Army also held the seeds of a coup d'etat, the monarchy and its foreign supporters implemented the classic precautions. The responsibility for internal security was assigned to the Cyrenaican Defense Force (CYDEF), a paramilitary force composed of loyal tribal levies, that would be armed with antitank guns when the Libyan Army got tanks. Key Army and CYDEF commands were held by officers with the most to lose from a coup, those who were linked to King Idris through blood, adoption, or marriage, and who shared in large commissions from arms contracts. The loyalty of junior officers was to be assured by careful vetting and selection from traditionally supportive tribes or families.

In sum everything appeared to be under control as the end of the 1960s was approaching: rising oil revenues would keep the Libyan people happy, and a growing defense capability would keep Nasser at bay.

Unfortunately, oil and defense cooperation provided grist for the mills of those Libyans who were already aggrieved by the monarchy. In fact, the 1968 arms purchases became a sort of paradigm for all of Libya's ills. Large commissions to the King's senior loyalists in the Army epitomized the prevalent corruption and favoritism. The provision for a sizable contingent of technical and English language instructors symbolized a dependence, even subservience, that was cultural as well as professional. The acquisition of an air defense capability at a time when Libya was well outside Israeli aircraft range, demonstrated that the system was focused on some nearby "Arab brother" such as Egypt or Algeria and involved the monarchy in imperialist efforts to "divide and conquer". Worse, the humiliating restrictions on the Chieftain tanks proved that the monarchy had disassociated itself from the struggle to liberate Palestine.

Although many Libyans shared these perceptions, the junior officers in the Libyan Army were affected most strongly. All they needed was a leader who could bring together the threads of Arab nationalism, Muslim revivalism, Palestinian sympathy, bedouin egalitarianism, and foreign resentment * * * and Libya's military build-up provided that as well. Faced with a growing need for junior officers at a time when the best qualified young men gravitated to the petroleum industry, Libyan recruiters lowered their educational standards and adopted a more tolerant view of political correctness. The most significant beneficiary of that leniency was Muammar Qadhafi who was admitted to the Royal Military Academy despite having been thrown out of secondary school for political agitation, and commissioned in 1964 even though he was a known troublemaker while at the Academy. Just 5 years later, he and a handful of fellow officers overthrew the monarchy on September 1, 1969. Thereafter, the special oil and defense relationships came to a precipitous end.

While reiterating that parallels are never exact, a few changes of name and reference point give cause for pause in the rush toward a special relationship with Saudi Arabia, viz: the al-Saud for the al-Sanussi; Nejd for Cyrenaica; Hijaz for Tripolitania; the Wahhabi *ikhwan* for the Sanusiyah *ikhwan*; World War I for World War II; Saudi National Guard for Cyrenaican Defense Force; Saddam Hussein for Gamal Abdul Nasser; Kuwait invasion for Yemen invasion; Dhahran air base for Wheelus; King Khalid Military City for El Adem; Abrams tank for Chieftain; Patriot missile for Rapier. Do all these clever substitutions mean that there will someday be a Saudi Liutenant X as a counterpart for Libya's Lt. Qadhafi? No one can know the answer to that, but it certainly cannot be ruled out. It is at least a risk to be considered by those responsible for plotting the Nation's energy strategy.

Mr. WALLOP. Mr. President, I would make two quick observations. One, it is ironic that the Senator from Vermont [Mr. JEFFORDS] was pleading so hard for his amendment by filibustering the vehicle by which it would become eligible to be considered. Some things are difficult to understand.

Second, in the letter from President Carter, I would just make this point. Nobody has claimed that President Carter was for ANWR. But no one can disclaim, least of all President Carter, the sentence that says, "Comprehensive energy legislation such as that pending before the Congress provides an opportunity to continue progress towards national energy policy."

Mr. GARN. Mr. President, I rise today to offer my strong support for bringing this measure before the Senate. The American people deserve to have a matter of this importance considered and debated by its elected representatives.

If nothing else, the recent war in the Persian Gulf should finally teach us that America must develop a program to increase its ability to supply domestic energy needs and reduce its dependence on foreign energy, primarily oil. If we fail to act now, we have only ourselves to blame.

To understand what we must do requires a brief look at the history of where we have been on the question of energy. At the time of the first Arab oil embargo in the fall of 1973, the average price of a gallon of gas in the United States was 30 cents, roughly the same price consumers paid in 1940. Between 1974 and 1979, the price stabilized at about 60 cents per gallon. Finally, after the Shah of Iran was overthrown in January 1979, the resulting instability in world oil markets caused the retail price of gasoline to jump to about $1.20 per gallon. Today, with the retail price at about $1.15, gasoline costs less per gallon, after inflation, than it did 50 years ago. Gasoline as a percentage

of household expenditures is roughly the same as it was in 1947.

In Europe, the average 1991 price of a gallon of gasoline is $3, while in Japan it is about $4 per gallon.

To put the price situation into greater perspective, consider this. Of the known reserves of crude oil in the world in 1990, the Organization of Petroleum Exporting Countries [OPEC] controls 67 percent of the total. Saudi Arabia alone controls 25 percent of known world reserves. The United States controls just 4 percent of known world reserves. The inevitable result of this is that the United States now imports 50 percent of the oil we use.

To me, these figures point out two startling things. Namely, Americans enjoy remarkably low prices compared with the rest of the world, while we remain highly vulnerable to outside, non-American sources. Yet, since the first oil price increase in 1973, through the Persian Gulf war, the Nation has done virtually nothing to wean itself from this grotesque overdependence on Middle Eastern sources of crude oil. This Nation is vulnerable, and increasingly so.

To make matters worse, the U.S. economy putts along daily consuming 40 percent of world's energy production—16 million barrels per day—and as I just said, it produces only a fraction of that amount. I often wonder how many more crises we will have to endure before the Nation collectively wakes up and solves the problem.

I believe the Congress of the United States now has another chance to put into place a long-term national energy policy which will address both the critical need to develop more energy domestically, and to begin a series of conservation measures which will allow us to use that energy more efficiently.

Earlier this year, both President Bush and the Senate Energy Committee, on which I serve, adopted plans to address this important issue. Both the President's national energy strategy and this bill provide an important emphasis on energy production and conservation. According to Energy Secretary Watkins, "this National Energy Strategy lays out for the first time a comprehensive foundation for a cleaner, more efficient and more secure energy future." If implemented, it will decrease the U.S. economy's demand for oil by 3.4 million barrels a day while increasing domestic oil production by 3.8 million barrels a day by the year 2010, according to the Secretary.

By the year 2010, the President's energy strategy proposes to reduce oil imports from an anticipated 65 percent daily dependence to 45 percent daily dependence. This is slightly less oil import dependence than exists in 1991. So, in other words, we are fighting just to keep our dependence on imports from increasing.

Specifically, the bill before us proposes to open up what may be the largest supply of oil in the country's history in the Arctic National Wildlife Refuge [ANWR] of Alaska. Exploration of these oil deposits which are near existing Prudhoe Bay oilfields can be accomplished so that only 1.5 million acres of 19 million acres or 8 percent of the refuge lands are actually explored, and because of tremendous technological improvements in slant drilling methods, only 10,000 acres of land will be subjected to surface impacts. Let me say that again for the benefit of environmental critics. Only 10,000 acres out of ANWR's total of 19 million acres will be impacted, including roads, drill pads, and maintenance facilities.

In 1991, 20 percent of America's daily oil supply comes from existing North Slope fields. Unfortunately, Prudhoe Bay is beginning to experience the inevitable production decline that occurs in all major oilfields. Production there is expected to decline from a current level of 1.7 million barrels per day to about 500,000 barrels per day by the year 2000. If ANWR oil is made available through this legislation, it would be transported through the existing trans-Alaskan pipeline and could extend the production life of Alaskan North-Slope fields up to the year 2030. This is a potentially huge resource which cannot be ignored. Another real issue here is jobs, because in reality we will either import the oil from Saudi Arabia and put their people to work, or we will develop this field in Alaska and put Americans to work.

While the development of this oilfield is important, very important it is only one of many very good provisions in the bill reported by the Senate Energy Committee.

The national energy strategy laid out in S. 1220 calls for the exploration of potentially significant amounts of oil in our coastal waters of the continental United States. The proposal also emphasizes developing America's huge 500 year supply of coal and large quantities of natural gas. It also includes proposals to develop new technologies to improve the recovery rates on existing oilfields in the continental United States.

Significantly, the energy strategy promotes the use of nuclear power as an energy option. Consumers will benefit by new laws governing improved powerplant siting, licensing, and financing of advance nuclear reactor technologies that utilize standardized, modular designs, and passively safe features. The measure proposes to streamline the Nuclear Regulatory Commission's [NRC] regulatory structure that has effectively blocked construction of new nuclear powerplants in the United States since 1978.

Mr. President, I believe S. 1220 address the conservation side of the equation as well. The Johnston-Wallop bill so called, addresses these issues in a very comprehensive way. While there are parts of the bill that I would have written differently, it does combine the essential production elements with important conservation features.

For example, in the long term, the bill decreases energy consumption by far more than it increases energy production. According to the Department of Energy, by 2030, the cumulative increase in primary energy production is 38 quads, while the cumulative consumption savings due to conservation is projected to be 294 quads. This is a significantly higher savings due to conservation than from increased production.

Probably the most controversial conservation measure in front of the Congress today deals with corporate average fuel economy [CAFE] standards for automobiles. I believe the approach the Senate committee bill takes is far preferable to the Bryan bill which would mandate 40 percent improvements by the year 2001 with absolutely no technological basis for doing so. It is much better than the so-called compromise measures which are floating around. These compromises which would increase the mileage requirement by half as much are also arbitrary and lack a scientific basis. We all want better gas mileage in our cars, but let's think long and hard about the right ways to achieve that goal and the consequences of our actions to the American automobile industry and our economy if we make the wrong choice.

Mr. President, I intend to speak to this issue in much more detail when the CAFE title comes before the Senate later on. For now, let me again urge my colleagues to vote to bring this issue before the Senate so the Nation can begin to plan for its future.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the amendments in disagreement to the Interior Appropriations Act, H.R. 2686.

AMENDMENT IN DISAGREEMENT NO. 130

The PRESIDING OFFICER. The clerk will report the pending amendments in disagreement.

The legislative clerk read as follows:

The House insists upon its disagreement to Senate amendment No. 130.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. ROCKEFELLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SPOTTED OWL/OLD GROWTH FORESTS

Mr. HATFIELD. Mr. President, although I represent the State most directly affected by the highly publicized—and now nationalized—controversy over the northern spotted owl and the old growth forests in the Pacific Northwest, I have tried to minimize the number of times that I have used this forum to speak on this subject. Over the years that this debate has raged, I have learned that rhetoric alone does little to heal this festering public policy sore. The more we talk and make accusations of disingenuous and greedy behavior—greedy from either an economic or preservationist perspective—the farther we push ourselves away from a solution.

No longer are spotted owls and old growth forests the stuff of front page headlines only in the Pacific Northwest. This is now big news everywhere—from Portland to Poughkeepsie, Boston to Bakersfield, Tampa to Tucson, and everywhere in between. Everyone—everywhere—wants to save the spotted owl and the old growth forests of the Pacific Northwest. That is fine, but what the lead editorials in the New York Times, the Washington Post, and the San Francisco Chronicle are neglecting to tell their readers is that there is a price to be paid for this action—and they will have to help pay for it.

I bring this message to my Senate colleagues today because we—the Congress—ultimately will be responsible for formulating the public policy which will serve as the final solution to this controversy. Many Members of this body have strong feelings one way or the other about this issue, and that should ensure a debate of only the highest quality. I have high hopes that the discussion, whenever it may arrive, will avoid the sloppiness, simplicity, and single-mindedness that has come to characterize the spotted owl debate to which we all have been exposed through the media over the past several months.

For far too long, the media and many of the participants have turned this into a dirty little drama between the timber industry and the preservation community. You note I do not use environmental community, because this has moved beyond what can be legitimately called environmentalism. This is preservation. While there is no love lost between these two warring factions, this ugly sideshow has obscured the third, and most important element in this controversy—the people—live human beings, blood and guts people, the people of the Pacific Northwest and the people in every other region of this country.

And what do I mean by the word "people?" In my region, it certainly means the mill worker, the logger, the lumber salesman, the carpenter, the cabinetmaker. But it also includes the home owner, the home buyer, the K-mart clerk, the county employee, the retailer, the railroad engineer, the third grade student, the theater owner, the elementary school teacher, the environmentalist, the entrepreneur, and on and on. That is what I mean when I talk about every man, woman and child in my State, as representing the definition of the word "people."

My State's economy and way of life—our culture—are heavily dependent on our Federal forest. State and local governments depend on timber receipt revenues to finance schools and roads, large percentages of rural communities depend on mills for employment, and rural railroad links, the economic lifeblood of those communities, exist solely to ship wood products to market. People who live in urban areas, Portland and portions of the Willamette Valley, who have been insulated from the economics of timber policy, soon may be affected by higher taxes to finance schools and other services, will find fewer jobs in some sectors, and will come to learn that the multiplier effect does not discriminate between urban and rural communities.

And how about the people in other States? Every Member of this body should understand that the outcome of this debate also will affect your State, too. Let us be honest. Your constituents will probably pay more for homes, other types of housing, and remodeling. Lumber prices will increase, more of their Federal taxes will be spent on worker retraining programs and other social services in the Northwest. Increased environmental pressure will be placed on other areas of the country and the world to compensate for fewer wood products being produced in Oregon, Washington, and northern California. No, this is not the localized issue that many of my colleagues have been led to believe.

I understand what the attitude is. This is Federal public land in the Northwest. This is free land. This belongs to all the people. True. But when you take that free land and then apply the Endangered Species Act, the precedent that will be set will apply over private land, all the land, and I can assure you that the approximately 2,000 candidates for endangered species listing, whether they be plants or wildlife, and their ultimate resolutions, will be affected by the precedent set by the spotted owl.

And when the agency of the Federal Government, the U.S. Fish and Wildlife Service, says it is all right to come out with this kind of final policy, to lock up the forests in four northern counties of California, all of western Oregon, all of western Washington and, if they could, British Columbia to protect one endangered species, let me tell you that your site specific application of the Endangered Species Act has much broader implications. When you think an action will only affect a little part of a county in your State it is one thing, but when you transfer the market demand for timber products from the Pacific Northwest to the 13 southern pine States where there are minimal conservation, and reforestation laws on the books—whereas in my State we have one of 50 years standing on private land and State public land, and other public land—that environmental impact is going to be on your small wood lots, on your industrial wood lots, and the flora and fauna that depend on those wood lots. And let me suggest that you ought to review the reforestation policies that are not occurring today in the 13 southern pine States.

Or if that harvest demand transfer is made to Canada, where its reforestation and conservation laws are much less stringent than ours, though they are in the process of improving them. That is why I did not use the word "environmentalist" earlier, because the preservationist has a vision about as far as his nose. If one were a true environmentalist, one would understand this is one globe, one human race occupying this one globe, and that transferring timber harvests from the Northwest to other places on the globe has an impact on all of us.

And let me tell you, as was the case when the head forester of the country of Denmark, at an international conference in the Midwestern States of the United States, said, you are proposing to lock up the timber producing lands in your region equivalent to all of the forest in the Scandinavian countries and West Germany, the major supplies in Europe for wood products. And by this action you are going to increase our burden to help meet the world demand for products. He said, you have a very limited vision of how what you do here is going to impact us in Scandinavia and throughout the whole world.

No, this is not just a little local owl that we are so many miles away from that does not really impact on our thinking. "It is no skin off my nose to vote to lock up forests in the Pacific Northwest," some may say. Well, it may be more than the skin off your nose when you begin to look at the true environmental impact and the true environmental consequences of this action.

Nor are the facts of this issue probably what you have been led to believe, either. I regret very much and resent the image that has taken root in the minds of many that we are on the verge of cutting our last old growth tree. Or that the ancient forests have disappeared. That is sort of the litany. Or that the spotted owl may go extinct in the next year or 2 if we cut even one more Douglas-fir.

The fact is, even before the spotted owl became a major issue, the Forest Service was trying to decide how much

old growth to preserve. And while the proposed amount has increased significantly over the last couple of years as a result of further study, the debate has never been if we should save old growth forests. The question is how much?

I would say to my colleagues we have protected permanently 47 percent of the old growth in my State of Oregon already through my legislation on wilderness and wild and scenic rivers and other legislative and administrative withdrawals. Remember the litany about the spotted owl: It can only survive in old growth forests. They said it took 1,700 acres per pair for them to feel comfortable in procreating and surviving. And then it moved up to 2,000 acres per pair, 2,500 acre per pair, 3,000 acres per pair in old growth. That was your first, "science."

When the Forest Service went in to make the first true inventory, it not only found spotted owls in second growth forests far beyond old growth forests, they actually found some northern spotted owls in cutover lands. So maybe the science has been driven by the politics?

Then we got the Jack Ward Thomas report that said we should set-aside 8 million acres of land for the preservation of the owl. Everybody touted this as science. Interestingly, in that report it said we exempt all Indian lands from this requirement. I said, well, there is political science, that is not pure science. Nevertheless the Thomas report became the gospel. It was the salvation for the owl.

Then along comes the Fish and Wildlife Service. It said, "Well, we looked at this thing. We think there should be 4 million more acres set aside." So Thomas is trashed now because why settle for 8 million acres when you can get 11 million? The only thing about this was 3 million of those 4 million were private land set asides. With no compensation provided.

So all of a sudden, as I said, that may be the best thing that can happen to us. Now we can apply that principle of taking to West Virginia private land, we can apply it to all 13 southern pine States, and other States. And then let us see where the cost is as it applies to the private land.

Well, the Fish and Wildlife Service sort of rethought that. Maybe that was not a good way to go. So they reversed that proposal. But, nevertheless, the fact is, a threshold had been crossed in the recommendation of a Federal agency that this should apply to private land.

Now let me emphasize again in Oregon we have a State law requiring reforestation on private land. For every tree we cut, we plant five; we have more trees today in the State of Oregon than we had 20 years ago.

And we, as I say, have already protected 47 percent of our old growth, in Oregon, and we plan to protect some more old growth. But this is not one of those situations where we are considering it purely from how much can we preserve, but how can we balance the economic needs, the human needs, and the environmental needs.

We have 70 communities in my State that have a 1- or 2-mill economy, most small- and medium-sized operators are dependent entirely on a Federal timber supply. You cut that off and you have, in effect, deemed 70 communities in my State to extinction.

Oh, we have an awful lot of simplistic solutions to this problem. And some groups always have a very pat answer. Well, we will get some retraining money and retrain the workers. Retrain the workers. Workers on the average receiving $26,400 a year in the timber industry to be retrained for what? A number of them illiterate, a number of them poorly educated. I do not say this about all, but I am just saying that there are many in that particular industry.

Well, they say, the fastest growing industry in Oregon is the tourist industry. Yes, we retrain them for minimum wage jobs. Oh, that is easy to say because after all, they are just statistics. I wish some of these people who pontificate about this, and that, and the other thing, would get out, as I have done and had to do and wanted to do, and face the mothers and fathers and children who say "What are we to do? Where are we to go?"

This is a people problem. I do not see how anybody in this body can really express deep, deep compassion for the homeless on one hand, but do not address the issue of what caused their homelessness, or how to get them back into homes.

Let me remind you that one of the fastest growing elements in the homeless population today in America is families with children squeezed out into the street, with no homes available. And yet, we can still turn and call ourselves environmentalists when the most energy-efficient, renewable resource with which to build homes is wood. Free solar energy grows the trees. You cut a tree, you plant a tree or plant five. And you have a resource in perpetuity. I listen to some of these people talk about the ancient forests as if God had created these very forests in Genesis I and they never changed until man came along and started cutting.

A Douglas-fir forest, that is an old growth forest, starts in some people's schedule at 200 years of age. And they talk about the ancient forests as if they were the sequoias that grow for thousands of years. The oldest Douglas-fir that you find will maybe reach 700, 750 years. But that is not the whole forest, that is an identifiable tree that you can point to.

So let us assume that 500 years is a good median range of a Douglas-fir, ancient old growth forest. This is 1991. So 1491 becomes a time in which none of us have a recorded record of Oregon or Washington. But we know this, that those forests have been constantly changing over the years because the Indians used to clear cut by burning them, setting fire to those ancient forests in order to provide some underbrush and undergrowth for maintaining the wildlife.

Lightning has struck. We have had pest infestation. At one point here, about 10 years ago, 800,000 acres of pine forests were threatened by the tussock moth. And we have had pine beetles, tussock moths, bark beetles, all of these things that have attacked the forests in huge dimensions. Yet those forests that have been destroyed in these ways, or in forest fires or by whatever method, by cutting and harvesting, have been regrown and regrown and regrown and they will continue to be regrown.

Consequently, let us understand that these are not the forests God created in Genesis I. At the most we can say, on the average, they may be 500 years old, and then there are those which are still coming into old growth status as well.

When I was a very small child, we had the largest forest fire in the history of the State. At high noon, the sun was blotted out and it was dark. The Tillamook Burn. Thousands of acres went up in smoke in a forest fire one hot summer.

Today, that forest has been replanted and regrown and it is now about 60 years old.

In another 150 years, it will be counted as an old growth forest. And that has been going on for hundreds of years upon hundreds of years and will continue on under proper management.

So let us understand what an old growth, ancient forest is. At one time this Nation had the prairie grass of the Midwestern States, and it has been populated. It has been replanted or they have taken other crops. Sure, we had more acres of old growth at one time before we had cities built and farms created.

But are you saying to us we have to turn the clock backwards? We have to return to the campfire along the river bank? Think about it.

We now have a little different attitude from some of my friends from California who were not that much connected to northern California and its spotted owl problems. Now they tell us there is a delta smelt, in the main flow of the Central Valley project water system that has been proposed for listing as a threatened species. Now they are beginning to say, hey, this is serious. Are you cutting off our water? Now you have gone a little far. After all, that spotted owl is up in the trees in Oregon—but this affects us. Or the winter chinook salmon in San Francisco Bay that can threaten a $5 billion

shipping industry. Well, maybe that is going a little bit too far.

We have, my friends, 214 potential endangered species listings for salmon alone in the Pacific Northwest. Sixty-two percent of our total energy system in the Northwest is hydroelectrical energy that is created by dams in the Columbia and Snake Rivers.

A recovery program for any one of those fish may mean that we will have to reduce the flow or increase the flow of the river in order to help the downstream migration of juvenile salmon. And I support programs of this kind. Or we may have to drastically reduce commercial harvest of salmon, or close river traffic on the Columbia and Snake Rivers, or take other measures to save these fish. We will do what it takes, but we will balance human needs in the equation. I called a salmon summit to deal with this in the region to get us ahead of the curve.

But what I am saying to you, some of these same people who say let us preserve all the forests, unrelated to people's needs, have begun to say the only ultimate answer is to pull the dams out of the river. Pull the dams out of the river, and replace them with what? Coal-fired powerplants?

I am one of those who has a great commitment to environmental legislation. I can say in all modesty I have authored more environmental legislation in this Congress affecting the State of Oregon than any politician in the history of my State. I have added more wilderness.

How many wild and scenic rivers does your State have?

I have legislated 42 wild and scenic rivers for my State. I think the next highest is about 10 in the lower 48 States. The Columbia River Gorge Act, Hell's Canyon Act, Oregon Dunes, Cascade Head, Yaquina Head, and on and on I could go. Yet by the preservationists in my campaign last year, I was referred to frequently as a pimp of the timber industry because I raised the needs of the people and I reacted negatively toward proposals to lock up the forests for nonuse.

It is interesting, you know they do not talk about conservation anymore. Do you know why? Because the father of conservation was Gifford Pinchot, and Gifford Pinchot defined conservation as "wise utilization."

Today, those who would normally be in the conservation movement, who are calling themselves environmentalists and who I call preservationists, are not interested in any utilization.

I could philosophize a little bit by saying I think it is a value problem. It is not an economic problem, ultimately. It is not an environmental problem, ultimately. It is a value problem. We are putting far more value on animal life than on human life.

Remember that television program, when a person said here is a guinea pig that could be used in medical science research perhaps to save this baby. Which one would you choose? And the person says, "I have trouble with that."

I have trouble with that? Choosing between a guinea pig and a baby?

Well, in a sense that is representative of the value problem we face as a Nation, as a culture. I want to tell you right now, as I have said earlier on this floor, I want to preserve the unique environmental areas of this country, of this world. But if it is going to come between a choice of doing some drilling in ANWR to get our addiction satisfied for oil or sending our troops to the Middle East to fight wars, I am going to drill in ANWR. And after the Persian Gulf, that becomes a very real choice that we have to make.

Again I repeat, 99 Senators voted for war out of 100; and it was an oil war from the beginning to the end.

It is a value problem we face in getting this balance between people's needs and environmental protection. I do not believe they are mutually antagonistic. I think humanity and the environment were meant to live compatibly, wisely. As the Scripture says, with wise stewardship, realizing it was creation, and we cannot divest the Creator of the creation.

I think the more we look at this situation, we have to understand that we have to maintain a healthy ecosystem, protecting the waters that flow through the forests, the habitat for our fisheries. Those are part of the ecosystem.

Let me say we are not a giant wetland out there, we are a forest area, mountains and valleys, riverways, and human beings.

In effect, Mr. President, the debate has never been if we should save old growth forests, but how much should we save?

The more accurate question is actually, "How much old growth is necessary to sustain a healthy forest ecosystem?" Let me tell my colleagues that not only is this the real question, but that it is a fiendishly complicated question. "No problem, ask a scientist," some might say. That is easier said than done. I will wager with my colleagues that if they ask that seemingly simple question to seven different scientists they will hear seven different answers—some wildly so.

The bottom line here is that there are no simple or easy answers to this controversy. Although we all will continue to hear of this or that simple fix, I can assure you that none exists, for if it did, we in the Northwest would have found it by now. Some from outside the region can spout an endless string of familiar sound bite solutions which have a deceiving attractiveness, but offer little real hope.

For example, can we blame all this on log exports from private lands? No, but some have. Can we blame all the job losses in the region to industry automation? No, but some have. Can we blame job losses completely on the spotted owl and shortages of Federal timber? No, but some have. Can we blame timber harvesting on mythical timber barons who live and die only by the results of their profit and loss statements? No, but some have.

But, can we throw off the temptation to look for simple, inhumane solutions and roll up our sleeves and take a realistic look at what the possible answers are? Yes, but only if we recognize and admit that the solutions will be hard to find and that they may be different from what we envisioned originally.

Recently, one of my colleagues from outside the Northwest made a statement on the Senate floor about the spotted owl. Sadly, he repeated the same tired rhetoric that was virtually without substance, if not completely misleading. He talked about jobs lost to industry automation and allegedly poor logging practices on steep coastal slopes.

What he did not say was that 31 sawmills closed in the Pacific Northwest during the first 6 months of this year alone—long after the mill automation heyday came to a close—and that real workers and families are losing a way of life they have always known.

And what he did not say is that virtually every objective study of the economics of the forest products industry in the Northwest has shown that the slimming down of the timber industry, as a result of automation, began in the late 1970's, accelerated during the recession of the early 1980's, and is virtually complete today.

And what he did not say is that notwithstanding automation, employment in Oregon's forest products industry actually increased from a low of 62,000 in 1982 to about 77,000 in 1988—hardly the sign of a dying industry.

And what he did not say is that notwithstanding what the single interest groups say these same studies show that the employment losses in the industry today are directly attributable to the interruption of the supply of national forest timber.

And he did not tell you that the part of Oregon to which he was referring is the most productive timber growing land in the world, and that it also happens to be located in a checkerboard land ownership pattern that makes consistent management a virtual nightmare. It was a good political speech for a targeted constituency, but did little to accurately frame the debate, relieve the strain, or contribute to a solution.

Just 2 weeks ago, the House and Senate conferees met to iron out their differences on the fiscal year 1992 Interior appropriations bill. There was a certain amount of anxiety surrounding that conference due to reports that another

temporary, short-term spotted owl amendment would be offered by Members from the Pacific Northwest, ably led by my colleagues from the State of Washington, Senator GORTON and Congressman DICKS, and by my colleagues from Oregon, Senator PACKWOOD and Congressman AUCOIN, and other Congressmen. I do not mean to be exclusive in enumerating homes. Although no amendment was offered, several Senators who sit on the authorizing committees with jurisdiction sent letters to the Interior conferees objecting to such an amendment.

That was good news. We are desperate for action by the authorizing committees. We have had a hearing in the Senate Energy and Natural Resources Committee on Senator PACKWOOD's bill. It will eventually have to go to the Agriculture Committee, another committee of jurisdiction, but that is as far as resolution of this issue has gone. The trouble is that some of these same Senators signed a similar letter last year and the year before. Unfortunately, all these letters have not led to even one bill being reported by an authorizing committee. These letters of warning have been circulating for so long that they are starting to remind me of the old Christmas fruitcake joke. From the negligible results I've seen so far, I'm beginning to wonder if there is really only one letter out there that keeps getting passed around every year around Interior conference time.

But, Mr. President, as we all know, this is no joke. We in the Pacific Northwest stand accused—and many believe we already are convicted—of wasting the Nation's resources. Is this because we are a careless, wasteful, thoughtless crowd? No. It is because we live in a relatively unspoiled part of this country. We have the largest resource problems partly because we have the most resources to use and, therefore, to lose. And when you think about it, that is perhaps the final irony. We have become the Nation's repository of guilt for 200 years of resource exploitation that has scarred and ruined forests and scenic lands throughout the country, especially in the East.

Mr. President, the people of my State want this controversy behind them. We need to heal ourselves of this illness which has inflicted our lives for so long, and to begin planning for our new future. We need thoughtful consideration and investigation into a conundrum of undefined dimensions. We need the insightful deliberation for which the Senate is uniquely suited. If we do not take the time to do this, I can guarantee that this debate will never end. It will outlast us all.

Mr. President, the people of my State and the people of your State, and every single State in this country deserve better.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER (Mr. KOHL). The Chair recognizes the Senator from North Carolina.

Mr. HELMS. Mr. President, this day began in a rather glorious way for me. It was 49 years ago today that a young lady became my best friend and roommate. On top of that, I drove out to Bethesda Naval Hospital for the conclusion of 38 radiation treatments and, insofar as they can tell now, I am in good shape. It may be sad news for some of my adversaries, but it seems I am going to be around for awhile.

Then I come to the Senate floor and I discover that, in my absence, there has been a telephone campaign going on which has nothing to do with the merits of an upcoming amendment. Which everybody knows I will offer, a little later on this afternoon, an amendment to put an end to the waste of the taxpayer's money to subsidize and promote sodomy, obscenity, and various other forms of rottenness by the National Endowment for the Arts.

Let me say up front, Mr. President, that I believe I am going to lose as a direct result of the telephone campaign and the deals which were made as part of it. That is all right. I am accustomed to losing, and I am accustomed to winning once in awhile. But let it be said that this will not be the end of this amendment on this issue if my colleagues turn tail and reverse the votes that they have cast in the past to put an end to the reckless irresponsibility of the National Endowment for the Arts.

There are several things underlying the predicament that I find myself in, Mr. President. One is the so-called porn for corn deal struck in the conference between the House and the Senate. Several of my best friends—and I am reluctant to say this—made a deal with Congressman YATES, that if the conference would adopt a watered-down, meaningless amendment with respect to the National Endowment for the Arts, he, Congressman YATES, would go along with the Senate's grazing fee provision which is, of course, important to a lot of my friends.

Mr. President, I have supported the Senators from the Western States time and time again because I think they are right. I believe it is the State of Utah, for example, where two-thirds of the land in the State is owned and/or controlled by the Federal Government. So my friends who have always supported my legislation with respect to the National Endowment for the Arts feel some obligation—and pressure—because, as I say, the telephones have been ringing with the word that Senators must vote to table the amendment this afternoon or risk losing the Senate position on grazing fees.

Now, that is a sad set of circumstances. And some of the Senators are under the impression, the false impression, that if my amendment should pass this afternoon, the House will be able to eliminate the grazing fee provision. That simply is not so. It cannot be done under the House rules.

Let me read you a review of the parliamentary situation, as prepared in the House of Representatives in consultation with the House Parliamentarian, and agreed to by the distinguished Parliamentarian Emeritus of the Senate, Bob Dove.

It says:

If the Senate adopts the Helms amendment, the parliamentary situation could not be better for enacting it—

The Helms amendment—

into law and sending the Interior appropriations bill to the President without further debate:

1. When the Interior Appropriations bill is messaged over to the House, the motion of highest privilege will be the motion to concur in the Senate amendment. If this motion passes, and there are no other amendments still in disagreement, the bill is thereby cleared for the President's signature.

2. Even if other motions (such as disagreeing to the Senate amendment and requesting a further conference, etc.) are offered, the vote in the House must be taken first on the motion to concur. It is clear from previous House votes that the votes are there to pass such a straightforward motion—meaning the Helms amendment. (A motion to concur with a further amendment is not in order, since that would be a third-degree amendment.)

3. The only possible motion involving this bill with precedence over the motion to concur would be a motion to table the motion to concur. The last time this was tried on an NEA motion, the motion to table failed. Even if the motion to table passed, Congressman Yates would be stuck unless he could get the House to pass another motion. However, even in the highly unlikely event he could get the House to vote to disagree with the Senate and request a further conference, there would be no conference—since the conference has been disbanded—unless the Senate also voted to go back to conference, and there is simply no reason for the Senate to do that when they could simply insist on the Helms amendment.

4. If the Rules Committee tries to deal with this issue today, attempting to bypass the normal process, they cannot bring up the rule today without getting a two-thirds vote (an utter political impossibility on this issue.) And since the motion to concur in the Senate Amendment can be made as soon as the House gets the papers, any rule passed by the Rules Committee on this subject today would be moot by tomorrow. There remains the outside possibility of adjourning to reconvene later today, but that would cause all-out partisan war in the House, as it did the last time this strategy was used.

5. The bottom line is that adopting the Helms Amendment today forces a straight and dispositive vote on the NEA issue and the entire bill, and the issue of grazing fees CANNOT be opened up unless the SENATE (and the House) votes to open it up by voting to go back to conference.

So if my amendment is defeated this afternoon, Mr. President, it will be the result of the deal cut in the House-Senate conference, which is now commonly known around this town as the "corn

for porn" deal. That deal is now being held together based on a misunderstanding of what the parliamentary situation would be if the Senator, who have supported this amendment in the past, did so again today.

I suppose it can be fairly said that this is the first time an amendment, certainly one that I have offered, has been defeated by a bunch of bull.

Before I proceed to the amendment, Mr. President, I think it is essential to correct some outrageous misstatements of fact that have been circulated repeatedly this year in an undeserved defense of the National Endowment for the Arts. These misstatements have poured forth from the NEA's apologists in the news media—and, I am sorry to say, by some Senators and Members of the House of Representatives.

Mr. President, I come from the news media. I spent most of my career in the news business before I came to the Senate. But I have never seen such arrogant misrepresentations of the facts as I have witnessed day after day, week after week, month after month, regarding the National Endowment for the Arts funding for pornography.

Reporter after reporter, show after show, cries censorship even though they know that is false. They have hidden from the public what the issue really is—that is Government support for indecency, rottenness, homosexuality, sodomy, bestiality.

I have here, available for distribution to any Senator who may want it, just one example of materials funded with taxpayers' money by virtue of a 1991 grant from the National Endowment for the Arts. I am going to hold up just one picture for this NEA-funded publication, and I am going to hold it up just briefly. Mr. President, that is one page of a publication, and on it is a blown-up picture of a woman's vagina followed by some of the crudest language I have ever seen. I might add that I am now 70 years old. I have been around the track a few times. I was in the Navy for 4 years in World War II. I have heard it all and seen most of it. But I have never seen such rottenness as the filth contained in this publication and other works supported by the National Endowment for the Arts.

Mr. President, we have passed legislation over and over again in the Senate on this issue, and it goes to the House and it comes back watered down that it is meaningless.

Now, the news media is going to chortle tomorrow morning: "Helms is defeated"—but that is all right. I have been defeated before. But I will not be defeated on the substantive aspects of this issue. I will be defeated by a deal that has absolutely nothing to do with the merits of this debate. I will be defeated by arrogance on the part of some, and again, that is all right. I cannot control that.

All I can do, Mr. President, is tell the truth as I see it and hope for the best. But I say, with all the emphasis I possess, that if I am defeated this afternoon when we are on the threshold—on the 1-yard line—of passing and sending to the President a meaningful restriction on the NEA's malfeasence, it is admittedly disheartening to be stoned when we are so close.

I have heard repeated declarations by editors and Members of Congress that the existing so-called restriction—the watered-down rhetoric that went into the law last year instead of my amendment, and which the House has sent back once again as a substitute for my amendment—takes care of the NEA's irresponsible funding of patently offensive so-called art and, therefore, there is no need for the Helms amendment. However, the truth is that the NEA's subsidies for pornography have continued and that there is a crying need for the upcoming amendment.

The amendment has nothing whatsoever to do with censorship. What we are talking about is sponsorship—using the taxpayers' money to sponsor and subsidize filth.

Senators who want to know the truth can find it in the brown envelopes right beside my desk. They are welcome to ask for one. But, I defy them to look at the materials inside and tell me that they want the taxpayers' money to pay for such smut. I was tempted to have the pages put an envelope on each Senators desk, but I can envision the wisecracks in the media tomorrow morning to the effect that Senator HELMS is handing out pornography.

See, Mr. President, the liberals in the media do not want the public to know what is at stake in this matter. No, sir. A year or two ago I ran into a situation in North Carolina where they were saying that, "Senator HELMS is opposed to Mapplethorpe's pictures and here is one of Mapplethorpe's pictures," and then they published a photograph of a lily. They did not publish Mapplethorpe's photograph of a man with a bullwhip protruding from his rectum or any of the other things that are too gross to talk about on the floor of the U.S. Senate.

So I challenged the editors in North Carolina who were being so critical of me, to the paper in Greensboro for example, I said, "Let me send you the pictures and see if you still feel that way. I ask only that you have the photographs available at your paper so responsible citizens who have an interest in the issue can see them." Of course, I did not hear back from him.

Finally, I called him. I said, "Are you going to have it available?" He said, "We run a newspaper, not a library, Senator." You see, he did not want to tell the truth to his readers.

Mr. President, the word "censorship" has been so abused in the debate over the NEA. It is not censorship to tell people who crawl in the gutter that they have no right to invade the American taxpayers' pocketbooks.

Mr. President, the existing law, which the House used to gut my amendment in the conference report—an amendment approved by 2-to-1 margin in the House and Senate—has not shut off the foul stuff the NEA is subsidizing and promoting with the taxpayers' money.

For example, the National Endowment for the Arts this year gave new grants to Holly Hughes. Senators should remember that name from last year. The NEA gave her more money for a little project that she arrogantly proclaimed "will deal with lesbian themes and there will be sexual material in this work." Yet, she got the money.

Another new grant from the NEA went to the Kitchen Theater. Do you remember that? It was subsidizing and promoting a work by a woman named Karen Finley. Do you remember her? She is the woman who last year appeared on stage in public, nude, after having smeared her body with chocolate and bean sprouts. Oh, boy, that is great art. We need to tell John Q. Public down in Lumber Bridge, NC, "You do not know art. Therefore, you just send the money. We will do whatever we want to with it."

That is what the NEA says and that is what the Congress has upheld. That is what JESSE HELMS from North Carolina is opposed to, has been opposed to, and forever will be opposed to.

More grants are going this year to numerous so-called gay and lesbian film festivals in New York, in San Francisco, and other cities around the country. Still another 1991 NEA grant was used to produce a so-called arts journal. That is the document in the envelopes in the box right by my desk. I warn Senators who take possession of the packet of this to be sure that the ladies employed by the Senate, and particularly the young people who serve as pages, are not exposed to it. I do hope Senators will take a look at it. I think they will see what I am talking about.

Mr. President, insofar as this Interior appropriations conference report is concerned, this is it, the last call, in this instance, for the Senate to stand up to decency, to insist on responsible expenditure of the taxpayers' money, and to reject the nonsense that self-proclaimed artists should have free access to the taxpayers' pocketbooks to subsidize and reward filth masquerading as art. We have been down this road many times, as I have indicated earlier.

Yet, we still have declaration by certain politicians and by the news media that it is somehow censorship for Congress to require the National Endowment for the Arts to spend the taxpayers' money responsibly.

The amendment that I am going to send to the desk shortly is the very same amendment that was agreed to by the Senate on September 19 by a vote of 68 to 28 and which the House of Representatives supported not once but twice by a better than 2-to-1 majority vote. One was 286 to 135, and the other was 187 to 133. Each of the House votes, as a matter of fact, were motions to instruct the House conferees to accept the Helms amendment. And a gentleman with obvious power in the House said, "I do not care what the House says; it is not binding. The Helms amendment is not going to be in the conference report." And he, in effect, said, "If you want this, if you want that, if you want the other thing, you had better go along with me." It does not matter about the substance of the issue.

He is determined that the National Endowment for the Arts will not be inhibited in the slightest, as is evident by the garbage that the NEA has subsidized this very year, despite these overwhelming votes in the Senate and twice in the House. The minority who oppose this amendment in the House once again succeeded in gutting the Helms amendment in conference by the process that I have just described.

And they roped in a lot of my best friends in the Senate, some of my strongest supporters in the past, regarding the NEA matter.

So, Mr. President, the amendment's opponents are reduced to using procedural dodges and back room deals, like the "corn for porn" deal in the most recent conference, because the conferees know the American people are resentful. And if you doubt it, come over to my office sometime and look at my file of letters from all over the country and every State.

I am confident that we will hear the tired old argument that while Senators may be concerned about the NEA, the Senate should not send this conference report back to the House. But that is precisely what the Senate should do, Mr. President—if Senators really want to put an end to the outrages funded by the NEA.

With this vote, Senators can put an end to years of backroom deals and parliamentary "flim-flam" by voting for the pending amendment. Then, the conference report will go back to the House for the first up and down vote ever allowed in the House of Representatives on this issue.

If the House votes in favor of the amendment—as it undoubtedly will, if given a chance—then the Interior appropriations bill will go directly to the President without going back to conference or the Senate.

Mr. President, the NEA's "hallelujah chorus" is terrified that such a vote would destroy, once and for all, the legal technicality—the phony, contrived "artistic merit" loophole—that the NEA has used to dupe the American people with on this issue since 1989. That loophole has allowed the NEA to deceive the American people into believing that the NEA's unrepentant defenders in Congress are doing something to stop the NEA's pornographic outrages when in point of fact they are doing nothing but providing an alibi for the NEA.

This transparent deception is deliberate. The NEA's lackeys have intentionally fashioned a loophole in current law that allows the NEA to circumvent each and every NEA obscenity restriction Congress has passed since 1989. So, despite the deluge of tough-sounding rhetoric in the conference report, it simply restates the legalistic and phony loophole allowing the NEA to fund anything the self-proclaimed art experts choose to call art—no matter how disgusting, filthy, and vulgar it may be. The loophole is intended to let the NEA continue doing what it has been doing.

I guess it is artistic merit that a naked woman is up on the stage with chocolate smeared all over her, or bean sprouts, or whatever it is. I do not want to censor her; I just do not want to support her. I do not want John Q. Public to be taxed to support her, but the NEA feels differently about it.

So do not tell me that the NEA is straightening up and flying right. It is not so. I know what I am talking about.

Mr President, the problem from the beginning is, as it has been, the shallow contention by the self-proclaimed art experts, that some works are artistic simply because they are vile and offensive. These experts insist that the NEA is constitutionally compelled to fund such depravity with money taken from the American taxpayers against their will.

The amendment which I shall offer shortly would, if the Senate approves it, put an end to this deceitful charade. It prohibits the NEA from paying for patently offensive materials—regardless of whether the NEA's self-proclaimed experts consider such works to be artistic. The amendment's opponents in the House know this all too well. That is why they have worked so assiduously to misrepresent the pending amendment's language and—worse still—to prevent its being voted on, ever, by the U.S. House of Representatives.

Mr. President, another difference between current law—which is not working, has not worked, and will not work—and the pending amendment is that current law uses the Supreme Court standard for putting people in jail to regulate the NEA.

What nonsense. My amendment, which has been approved by a 2-to-1 margin by the Senate and, in effect, twice, by a 2-to-1 margin in the House of Representatives, would use the Federal Communications Commission standard for regulating public broadcasts, a standard which had been upheld by the U.S. Supreme Court. Therefore, the language in the conference report, and the current law, is doing nothing more than taking a nonsensical, convoluted position that if the Government cannot put you in jail for showing it, then the NEA cannot deny you Federal grants to subsidize it.

Yes, Mr. President, I voiced concern 2 years ago—as I do now—about the assault on the Nation's fundamental values by perverted so-called artists who insist upon attacking the moral sensibilities of the American people by demanding Federal funds to advance the causes of the radical homosexual movement and other sexually deviant lifestyles.

Since I first questioned why the American people's taxes were being used to subsidize such filth, little has changed. In fact, it has become worse. All Senators, I am sure, have seen reports—entirely accurate—of the degenerate art that the NEA has supported with public funds—despite the NEA's disingenuous attempts to deny direct responsibility for all of it.

There are Annie Sprinkle, Holly Hughes, Karen Finley, the Kitchen Theatre, live sex acts, homosexual pornography, and, of course, countless homo-erotic movies, photographs, and film festivals, paid for by the American taxpayers. Since last year's debate the NEA has awarded new grants to Holly Hughes, Karen Finley, the Kitchen Theater and numerous so-called gay and lesbian film festivals featuring films with titles like "Strip Jack Naked," "Yearning for Sodom," "S&M Sex and Music," "Why I Masturbate," and even worse.

Mr. President, from burning the American flag to desecrating their own and one another's bodies, the depravity of these self-annointed artists knows no bounds. The only religiously oriented art funded by the NEA are scurrilous attacks on the Catholic Church or blasphemous insults to the deity of Jesus Christ.

The depravity knows no bounds.

Nevertheless, the same contrived pronouncements continue to pour forth from the NEA and these decadent artists who have taken control of the arts community. There has been, in point of fact, a militant disdain for the moral and religious sensibilities of the majority of the American people while these perverted artists literally laugh all the way to the bank to deposit the taxpayer's money that they have been awarded by the NEA.

I have had a lot of interesting confrontations, I guess you would call them, with television stations. I was one of the operators of a fine television station at the time I announced for the U.S. Senate in 1972, and I know these people. Or I thought I did.

I have talked to them about how about being explicit in terms of what JESSE HELMS is talking about. You know what some of them said. They said we would lose our license if we ran those pictures. Of course, they would. That is precisely the point. Yet, you see these glib, smooth backed haired guys on television talking about censorship. I heard on the radio, WTOP radio, this morning the announcer said, "Art that Senator HELMS thinks is indecent." But I got news for him. Millions upon millions of people across this land know it is indecent.

A recent article in the Media Watch newsletter took note of the fact that the major networks failed to show the most controversial NEA-funded works in every one of the 47 stories on the NEA from June 1989 to September 1991. They do not dare use them. The networks typical excuse was used for example by CNN reporter Mary Tillotson on September 29, 1989, when she stated and I quote here, "The photographs at the heart of the dispute are not appropriate for television." But she takes the position that it is appropriate to spend the taxpayer's money to subsidize and promote this garbage.

Bullfeathers, I say to the media. The photos are so rotten that no television station would dare show them.

What Mary Tillotson of CNN and other stations do not say, Mr. President, is that they refuse to show the pictures because they know the Federal Communications Commission would jerk their licenses just like that if they did. The FCC has imposed, you see, some standards that have been approved by and upheld by the U.S. Supreme Court.

In other words, Congress has passed rules—enforced by the Federal Communications Commission and upheld by the Supreme Court—to require responsibility on the part of those who select the content of the television programs.

Yet, these same TV and radio stations still denounce my efforts to have Congress stipulate by law that exactly the same set of rules apply to NEA publicly funded art that the Federal Communications Commission already applies successfully to the television broadcasting industry.

And the point is this, if the Federal Communications Commission can enforce this standard for public broadcasts, then of course the NEA, they would not like it, but of course the NEA would have to enforce it or be ridden out of its job.

Mr. President, while the TV stations conveniently hide behind their "not appropriate for television" defense because it suits their political bias in the NEA controversy, that defense was not good enough for the Pentagon when it refused the networks' demands that they be allowed to broadcast graphic pictures of dead and dying soldiers during the Persian Gulf war.

Mr. President, I have received thousands of letters and telegrams from people all over America who are outraged that their taxes have been misused to subsidize the poisoning of America's moral fabric.

We are today engaged in more than a debate about the allocation of $170-plus million. The Federal Government spends more than that every hour. What is at stake is a matter of principle—a question as to whether we will allow the cultural high ground in this Nation to be slowly subsumed by a minority of people who are out to destroy the Judeo-Christian foundations of this Republic.

So let us lay to rest the intellectually dishonest nonsense that it is censorship to call a halt to using the taxpayers' money to promote and subsidize obscenity and vulgarity—and that the American people are somehow constitutionally obliged to support a decadent artistic elite at the expense of the deeply held beliefs of the vast majority of Americans.

Mr. President, these gutter artists are free to do whatever they want to do with their own money. I have said from the beginning that anybody who wants to scrawl dirty words on a men's room wall is free to do so, provided they furnish their own crayons and their own wall.

Mr. President, the point is this: There is a clear difference between censorship and sponsorship. Censorship is when the Government bans the production, distribution, or display of materials in both the private and the public sector. What is at issue, concerning NEA funding, is a question of sponsorship—not censorship—because it has absolutely nothing to do with banning anything or sending anyone to jail. It has to do only with the Federal Government using the taxpayers' money to finance—or sponsor—crude, filthy and perverted materials.

Under the Constitution, the Government has no obligation whatsoever to compel the taxpayers to subsidize projects that are so far beyond first amendment protection that the Federal Government could ban their dissemination in the private as well as the public sector. But let it be clear that the Government's refusal to subsidize in no way prevents people from displaying or selling such materials at their own expense in the private sector.

Mr. President, my amendment probably will be tabled, because of the loss of the votes of Senators who are friends of mine who feel like they are over the barrel. They feel like they cannot vote with me today. I think I understand. I do not quite understand however, their priorities, but I will never get my nose out of joint because a friend has a different priority than mine. But I hope we can lay to rest at least this afternoon the intellectually dishonest nonsense that it is censorship for Congress to call a halt to using the taxpayer's money to promote and subsidize obscenity and vulgarity and rottenness, not to mention the fact that the American people are somehow constitutionally obliged to support a decadent artistic elite at the expense of the deeply held spiritual and moral beliefs of the vast majority of the American people.

Let me say again: Censorship is not now nor has it ever been the issue. Sponsorship is the issue.

Mr. President, I ask unanimous consent that several items be printed in the RECORD at the conclusion of my remarks: A resolution adopted by the Southern Baptist convention calling on Congress to set standards to prohibit the NEA from funding morally repugnant and inoffensive art; an article that I, myself, submitted for the NOVA Law Review last year; and an article by Andre Ryerson that appeared in the Heritage Foundation Policy Review last year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Christian Life Commission, Oct. 31, 1991]

RESOLUTION NO. 4—ON GOVERNMENT SUPPORT OF OBSCENE AND OFFENSIVE ART

Whereas, God has ordained government to do good work; and

Whereas, Southern Baptists have historically supported the constitutional rights of free speech and have opposed undue censorship; and

Whereas, Regulation of government funding of art, or certain types of expression claimed to be art, is not censorship of the arts; and

Whereas, The Supreme Court recently stated in *Rust v. Sullivan* that government may regulate expressive activity to conform to public policy as a condition for obtaining public funding; and

Whereas, The National Endowment for the Arts (NEA) has, increasingly in recent years, demonstrated a pattern of support for obscene, offensive, morally repugnant, and sacreligious "art"; and

Whereas, The Chairman of the NEA, who is appointed by the President, has demonstrated a clear lack of sensitivity to the concerns of evangelical Christians and others regarding the funding abuses of the NEA; and

Whereas, Last year, despite pleas from evangelical Christians and others, Congress and the President failed to support legislation which would have placed meaningful restrictions on what the NEA is permitted to fund but instead adopted an ineffectual standard calling for "general standards of decency"; and

Whereas, Since last year's ineffectual action by Congress, additional homoerotic, pornographic, and sacreligious "art" has been funded by the NEA with the explicit approval of its Chairman; and

Whereas, Some members of Congress and the President continue to oppose content restrictions on NEA funding.

Therefore be it Resolved, That we the messengers to the Southern Baptist Convention meeting in Atlanta, Georgia, June 4-6, 1991, recognizing the influence which the NEA has on our culture, deplore the lack of initiative

by the President and Congress in addressing the continuing abuses of the NEA; and

Be it further Resolved, That we urge the President to act immediately to remove the current Chairman of the NEA and replace him with an individual who will stop funding obscene, offensive, morally repugnant, and sacreligious "art"; and

Be if finally Resolved, That we call on Congress and the President to set standards which will prevent the funding of obscene, offensive, morally repugnant and sacreligious "art," or, if that is not done, to cease funding the National Endowment for the Arts.

[From Policy Review, Fall 1990]

ABOLISH THE NEA—GOVERNMENT IS INCAPABLE OF DETECTING ARTISTIC GENIUS

(By André Ryerson)

Imagine a government so confident of its discernment, and so oblivious of this capacity in its citizens, as to declare each year which automobile it considered the most desirable, then awarded a subsidy, say, to General Motors for its Cutlass Supreme sedan, or to Ford for its Taurus wagon. It is likely that the news media together with the auto industry, and joined by the public at large, would be scandalized. In a market economy we expect government to play the role of umpire, ensuring that fair rules of competition prevail, but not otherwise meddling in matters of private choice. This role is clearly perverted by the government's cheering for one competitor over another and giving it a seal of approval plus cash rewards. The monarchs of Britain once did so, but republican values in America forbade such royal favors as a matter of principle.

Yet in a realm far less open to laboratory testing than the automobile industry, far more liable to error in the long lens of time, where personal taste reigns with magisterial indifference to modes of scientific verification—the arts—we find our government selecting among artists which are worthy to receive public funds and which are not. That the system has provoked a scandal that has reverberated through the halls of Congress is not especially remarkable. What is remarkable is that it took this long to occur.

AESTHETICS OF SCANDAL

The National Endowment for the Arts (NEA) managed to survive outside the light of public scrutiny for a good quarter century, quietly giving grants to artists of "approved" tendencies. The public was indifferent to art that was subsidized but out of sight. In recent years, however, with the rise of photography and "performance art" to places of prominence, the awards the NEA has made in these more accessible art forms have captured media and public attention as never before. With public scrutiny, cries of indignation were not long in coming at the extreme vulgarity of many works supported by the NEA, works of varying technical accomplishment but certain to offend the religious, moral, and aesthetic sensibilities of ordinary Americans.

The downward spiral of taste that the art world has suffered in recent decades follows, in large part, from a mistake about the nature of art that arose from an accident of history. In the 19th century, middle-class mores became wedded to officious norms of academic art so that the genuine artists of the day, without trying to shock anyone and merely by creating original works, appeared as revolutionary iconoclasts who threatened the social order. Ironically, some of the most brilliant figures of what was emerging as modern art, Manet, Degas, and Cézanne, were men of middle-class values and conservative politics. Neither they nor their liberal colleagues has any intention of overthrowing the social order with their work, a fact attested to by what they had to say for their art and even more by the paintings themselves. Cézanne spoke of achieving classical ideals by handling nature through "the cylinder, the sphere, the cone, all placed in perspective," and by distilling visual essentials in a painting, "producing pictures that are a lesson." Both in creating art and collecting, Cézanne recommended not radicalism, but taste: "Taste is the best judge. It is rare. The artist addresses himself only to an exceedingly restricted number of individuals." He did not consider critics prominent in this group of the elect, though they have since come to dominate the discussion of what constitutes art. "Discussions about art are almost useless," remarked Cézanne. "The labor that achieves programs in one's own craft is sufficient compensation for not being understood by imbeciles."

Impressionist painting's "shock value"—a novel factor in art history—was clearly incidental to the aesthetic value of its works. None of the world's great art until then, through some 5,000 years of labor, had ever been certified as superior by indignant public outcry against it. But ever since the fuss that greeted Impressionism, public scandal has become a convenient "proof" of aesthetic authenticity. By dint of some very sloppy reasoning, the accidental became confused with the essential—at least for certain cultural elites—and a series of simplistic tenets took root: To express the self is to shock. Art is expression. Therefore, art must be shocking.

The shallowness of this syllogism is rarely plumbed by the gallery directors, museum curators, art critics, and foundation heads who embrace and propagate it, among other reasons, because it makes connoisseurship an instantly acquired skill. For while judging the intrinsic merit of a new work of art is extremely difficult, virtually anyone can identify which play or painting is likely to be the most shocking to the average citizen. To fall into this basic error is lamentable enough for gallery managers and theater directors restlessly in search of clients. It is wholly unacceptable as the national arts policy of a government of, for, and by the people.

MORTAL CONNOISSEURS

The case for making the NEA more discerning with the people's money has been argued by some capable politicians, including Congressman Henry Hyde (in National Review), and by thoughtful art critics such as Samuel Lipman (in Commentary). Unfortunately, they err by recommending better judgment at the NEA to clean up the prevailing mess, instead of seeing that the very enterprise of selecting certain artists to receive grants, while rejecting others, is not an appropriate function for a democratic government.

The scandal has resurrected the old question, "What is art?" It has also added a new one to the agenda, "Why have an NEA?"

People outside a given field tend to trust its practitioners with more expertise than they actually possess. Disappointment follows from discovering that doctors do not have all the right answers and occasionally have the wrong ones, that judges do not always know the law, and that professors can be narrow-minded and ignorant. The recent scandal at the NEA should add to our wisdom in this regard, since it involves state-appointed connoisseurs selecting works of art judged so superior to the norm—a man squashing beetles on his chest, a woman defecating on stage, a porn queen inserting a speculum in her vagina to offer the audience a peek, lesbians inflicting wounds on themselves to prove that ours "is a sick society," a crucifix photographed in a jar of urine, a young girl photographed to reveal her genitals, a homosexual with a whip stuck in his rectum—that these achievements deserve the gift of taxpayers' money plus the imprimatur "funded by the NEA."

The whole misadventure ought to instruct the public that artists and art connoisseurs are no less mortal than the rest of humanity, and no more to be trusted to steer the ship of art than generals are to be trusted to choose our wars.

The brouhaha at the NEA obscures, by the very outlandishness of the works rewarded, that even in the most trustworthy and mature hands, ascertaining the value of contemporary art is fiendishly difficult. A great hoax is played on the public when the belief is sponsored that objective criteria exist to discern superior art from the ordinary, the way a consumer service can test the nutrition in a loaf of bread or the acceleration of a given car. And that is why most conservative critics of the NEA, in their moderation, are at odds with the past two centuries of experience, which teach us that there is no sure compass, certainly no unbiased trail guide, in the wilds of contemporary art. At least two generations must pass before any sort of meaningful judgment can be made about the lasting value of a newly minted sculpture, painting, play, or sonata. Critics are needed, certainly, to pass immediate judgment so that we may bestir ourselves to see and hear what in time may prove enduring. But their judgment is fallible and should not be endowed with a perspective it lacks and which only time can provide.

Nor are artists themselves possessed of this gift where the assessment of other artists is involved. An anecdote from the 19th century makes the point. A young painter went to see Manet, the great inaugurator of the Impressionist revolution. The master carefully looked at the young man's canvases, then told him the hard truth. He had absolutely no talent, and ought to find some other vocation. The young man, as it happened, ignored the expert's well-intended advice. His name was Renoir.

When Cézanne was shown some paintings by Van Gogh and asked what he thought of them. Cézanne opined that they were simply the works of a madman.

We expect some professional jealousy in any field, whether among lawyers, doctors, or auto mechanics. But what makes the arts different is that technical skills that are central to other professions are not central to the value of a work of art. Cézanne got lower grades for drawing at the lycée than did his companion Zola. But Cézanne became a great artist despite his awkward draftsmanship because of the quality and power of his vision. Art, as Proust underlined, is above all not a matter of technique, but a vision. And to cultivate a unique and personal vision may well insulate the artist from the virtues of competing visions. In consequence, the presence of artists on government panels distributing grants to other artists is no guarantee against poor judgment, not to mention cabals, cronyism, networks of convenience, political log-rolling, along with ideological self-advancement. All of these charges have been made against those involved in grant-giving at the NEA.

HOW GOVERNMENT CAN HELP

But are we not obligated, as a society, to "do something" for the arts? Is art not one of the highest pursuits of the human spirit, the embodiment of ideals all too unattainable in politics or commerce? Yes. And that is precisely why the funding of the arts in a free society should follow from the accumulated choices of the people in their natural diversity, whether as individuals or corporately as businesses and philanthropic foundations. It is not the role of government to "assist" the process either by joining in the swings of art fashion that anoint one coterie today and another tomorrow, or by trying to check or balance them by throwing state influence and power behind some others.

The response of a rigorous laissez-faire capitalist to the entire question would be that art is a commodity like any other, and those who want the product should pay for it. If no one wants Jane Doe's poems or John Brown's paintings, they deserve to sit unsold. Certainly government should have no role in paying for products that no individual will buy.

As a point of departure, the laissez-faire or market argument is unassailable. Society as a whole should not pay for what no individual member of it wants. But this argument omits a consideration that does make art different from other products, namely, the unique factor of time required to assess the ultimate value of a work. The examples of William Blake, Van Gogh, Emily Dickinson, and others unappreciated by their contemporaries rightly haunt those who think about the problem. Is there no way to assist, while they are alive, those who are creating the treasures of posterity, but which the marketplace in the short term identifies only haphazardly?

Some answers are fairly easy. If we want more people to appreciate art, to visit museums with their children, and to invest their taste in an occasional print or painting, an appreciation of art is an obvious precondition. Here the function of government through the schools is sensible and desirable, within the competing demands of a school curriculum.

Closely related to art education is the preservation of our cultural past, through museums, classical theater, and symphony orchestras. While private philanthropy should be our first preference, a role for government, nonetheless, is wholly acceptable in materially preserving our cultural inheritance about which, thanks to the passage of time, rough consensus reigns. Government also has a special place in choosing the architecture of civic buildings.

It is also the case that public space and buildings can be improved with public art. Indeed, commissioning works for this purpose began with the Parthenon of Athens in the time of Pericles. More innovative modes of selection than presently prevail, however, would be a healthy turn. It would be refreshing to see (if only for experimental purposes) a simple vote by visitors to an exhibit of models placed in competition, since the voters would be self-selecting (anyone who cares about public art) whose taste, arguably, might prove more distinguished than that of many foundations, and easily of the National Endowment for the Arts.

PART-TIME WORK

Beyond these rather conventional ideas in support of art are innovations yet to be attempted. Once we honestly admit to having no institutional method for identifying greatness among contemporaries (beyond success in the marketplace), we can see that any institutional role for government should aim at helping artists as a class, rather than playing at the roulette wheel of identifying genius.

One innovation of this sort would involve the tax code, to allow artists deductible losses without a limit of years after which the activity is deemed "a hobby," as is presently the case. Another might involve collecting. If we agree that buying art is desirable but beyond the means of ordinary citizens, a tax deduction could be granted for money spent to participate in "art clubs" to buy art and circulate the works among members who share similar tastes, creating, in essence, fluid mini-museums in the private sphere. (This is how Ben Franklin launched what eventually became our system of lending libraries.)

On the supply-side of the equation, creating art is a financially hazardous choice among vocations. Yet the risk is widely understood and appreciated. The overriding desire of any artist is to secure, not money, but time—the time needed for creative work. Society has no obligation, however, to sustain every self-declared artist—although the Dutch have attempted this with a workfare-for-artists scheme, paying basic salaries and filling countless warehouses with paintings no one sees or cares about. Dutch artists themselves find the system somewhat depressing, and there appears no great push to repeat the experiment elsewhere.

What remains possible on the part of both government and business is a modest, if neglected, gem of an idea: part-time work.

Flexible work schedules have long been demanded by feminists alert to the special problems of working mothers. Industry is awakening to the need for part-time professional schedules because without them superior workers are leaving. But the concept of part-time work has much wider applications. Whole categories of people, not just mothers, would benefit from the opinion of part-time work. While some jobs are not susceptible to such arrangements, many others are, and the advent of fax machines and modem-linked computers is loosening and decentralizing the modalities of much traditional work. More fluid work schedules would also make better use of office and factory equipment than does a rigid 9-to-5, five-day week, and would also relieve computer gridlock and its attendant auto pollution and waste of time.

Yet there remains a suspicion that anyone wishing to work part-time is not to be taken seriously. However, studies reveal that part-time professionals have higher rates of productivity than the 60 to 70 percent levels of full-time workers, and in professions with high "burnout" rates, part-time professionals perform above standard.

With part-time work, both professionals and unskilled, made more available, an ambitious but unknown artist would be able to work two 10-hour days, receiving exactly half the salary and benefits of his 40-hour coworker, and still have five full days a week to pursue his art. He would be self-sustaining, a burden on no one, accepting a more ascetic standard of living in order to pursue a creative ideal.

AMATEUR TREASURES

One can imagine an objection, nonetheless, that would run as follows: "We don't want people working less and producing less: we want them working more. And we certainly don't want a large army of persons playing at art. We want artists who are skilled, competent, in demand, and who work at art full-time. In a word, we want professionals, not amateurs.

The answer to these points is, first, that in a free society people should be able to buy a very precious commodity: time. As we steadily become more affluent in the decades and centuries ahead, more people are going to prefer time to a second or third car in the garage, whether to watch their children grow or to pursue a neglected talent. Time will be seen as the ultimate luxury, and while some will waste it, history shows that leisure has permitted many of the finest works of art and philosophy to arise. And, yes, their authors were very often "amateurs," in that no one was prepared to pay them for their work.

The list of philosophers who were amateurs begins with Socrates, who earned not a drachma for his ideas, and includes Descartes, Locke, Bacon, and Spinoza, whose livelihoods were, respectively, artilleryman, tutor, judge, and lens grinder. Poetry would scarcely exist but for its amateurs who include Villon, Keats, Baudelaire, Rimbaud, Mallarmé, Whitman, and Dickinson, who earned their living at everything from picking pockets and teaching English to working as a Washington bureaucrat. Proust was an amateur novelist, as were Jane Austen and Stendhal. In discursive writing, Montaigne was one of our more distinguished amateur essayists, as were Pascal and Thoreau. In painting, the names of Degas, Cézanne, Van Gogh, and Modigliani are emblematic of artists who spent most of their lives working at their easels without pay. Western civilization would be a sorry thing without its ledger of unpaid work and the heroism of its visionary amateurs.

DECENTRALIZING JUDGMENT

Other ideas to advance the arts need to be explored. But our ultimate goal and established truths need to be kept in view. The last thing we should want for a democracy is a government rhinoceros attempting to arrange the china shop of aesthetic preference. Nor does it matter whether the disruption proceeds from a belief that art is a tool for improving the people (the old Communist thesis of socialist realism) or from the belief that government is competent to identify genius and reward it (with grants from the NEA for "cutting edge" artists).

The distribution of grant money to a chosen few assumes a wisdom that government does not possess, and affords it powers it does not deserve. A free society naturally develops a healthy pluralism of, competing tastes and preferences, whether in cheeses, wines, books, or art. The ethos of a free society aims at decentralizing opportunities and power, not narrowing them. In diversity is strength. This applies as much to art collecting and connoisseurship as to art creation. Only by encouraging widespread, spunky and independent judgment among the public do we improve our chances that an Emily Dickinson or a Cézanne will be identified while still alive. Quite the reverse will occur by "letting the government" take care of what government is utterly ill-designed to do—discern subtlety of expression and artistic genius. Through the NEA we are fostering the worst of all worlds. We are institutionalizing the nation's taste, and doing so at the lowest level of sensationalist vulgarity.

DEATH OF PATRONAGE

The recent scandal of government funding may prove a blessing if the policy implications behind the events are plumbed to their root. The enterprise of identifying enduring art has no agreed-upon criteria, for its standards are hotly debated by critics curators, and the artists themselves. Government, least of all, is suited to select the worthies

amid the crowd. Government has no special authority or expertise whatever in the arts, and its role should be one of a strictly neutral agent so far as regards the success or failure of this artist or that, this school or another.

We should recall that Shakespeare, Rembrandt, Shelley, Keats, and countless other great artists did not depend on government grants to create their works. Their support came from private patrons. Even when governments played a role, it was mainly for the purchase of art in public places—usually sculpture—the selection of which enjoyed broad support. The Church was a great institutional patron, whose place today has been largely taken by corporations and foundations. What is new in recent decades is a widely noted decline in independent taste. An elitist herd mentality has begun to steer the art support process, with timid corporations looking to the NEA for leadership, the NEA narrowly in thrall meanwhile to the "cutting edge" discerned in provocative "performance art" and whatever else enjoys the passing spotlight of New York fashion.

What is lacking today are bold patrons with genuinely independent taste. We need to think about the problem by remembering that Van Gogh sold exactly one painting in his lifetime. It would be interesting to know who the buyer was. We know it was not a museum, and certainly not a government. It was an individual with the courage of his taste. We badly need such patrons at all levels of our society, free of government attempts to steer the selection process.

We have no way of knowing how our grandchildren will judge our preferences and rearrange our museums. Some humility is in order here. We have no more wisdom about which few living artists will survive the sorting process and enter the pantheon of art than did the last century, which ignored some of the finest painters and poets of the age. In some sense, this is a fundamental condition of art. As Andre Malraux put it: "Art obeys its own peculiar logic, all the more unpredictable that to discover it is precisely the function of genius."

ART-STATE SEPARATION

The closest policy model to consider might be the government's relation to religion. The tax code grants religious personnel and institutions general advantages on the grounds that religious faith serves society in moral and spiritual ways distinct from the works of commercial enterprise. But we forbid the government from favoring one sect over another, this faith over that. The faiths and sects must compete among themselves for public favor in the marketplace of belief. The state establishes rules of fair play, but otherwise does not meddle in the free choice of individuals and voluntary groups.

The same policy should operate in the arts. The government has no business favoring one school of art over another, or awarding funds to this painter rather than to that. It lacks the competence to do so, because discernment in as personal and private a matter as art is as unsuitable to public measurement as religious faith.

An enlightened arts policy for a free society must respect the diversity that freedom creates, limited only by the frontiers of morally acceptable behavior as defined by law. Government may serve in a general way to facilitate activities deemed good. But where diversity of private taste contends, the state must stand aside.

[From the Nova Law Review, Spring 1990]

ART, THE FIRST AMENDMENT, AND THE NEA CONTROVERSY

(By Jesse Helms)

TAX-PAID OBSCENITY

America has been caught up in a struggle between those who support values rooted in Judeo-Christian morality and those who would discard those values in favor of a radical moral "relativism." As congressman Henry Hyde has said. "the relativism in question is as absolutist and as condescending self-righteous as any 16th century [Spanish] inquisitor."

For my part, I have focused on the federal government's role in supporting the moral relativists to the detriment of the religious community. I confess that I was shocked and outraged last year when I learned that the federal government had funded an "artist" who had put a crucifix in a bottle of his urine, photographed it, and gave it the mocking title, "Piss Christ." Obviously, he went out of his way to insult the Christian community, which was compounded by the fact that Christian taxpayers had been forced to pay for it.

As one distinguished federal judge wrote in a personal letter to me, when a federally-funded artist creates an anti-Christian piece of so-called art, it is a violation of an important part of the First Amendment which guarantees the right of all religious faiths to be free from governmentally-sanctioned criticism. When the National Endowment for the Arts contributes money to an artist for him to use to dip a crucifix in his own urine for public display, it is no different [in terms of church and state entanglement] from a municipality's spending taxpayers' money for putting a crucifix on the top of city hall."

The controversy over Andres Serrano's so-called "art" had hardly begun when it was disclosed that the national Endowment for the Arts also had paid a Pennsylvania gallery to assemble an exhibition of Robert Mapplethorpe photographs which included photos of men engaged in sexual or excretory acts. The exhibit also included photos of nude children. A concerned Borough President in New York City sent me a copy of an NEA-supported publication in New York, Nueva Luz, which featured photos of nude children in various poses with nude adults, men with young girls and young boys with adult women.

All of those "works of art" were offensive to the majority of Americans who are decent, moral people, Moreover, as any student of history knows, such gratuitous insults to the religious and moral sensibilities of fellow citizens lead to an erosion of civil comity and democratic tolerance within a society. Therefore, funding such insults with tax dollars surely is anathema to any pluralistic society.

This was the basis of my offering an amendment to the Interior Appropriations bill to prohibit the National Endowment for the Arts [NEA] from using tax dollars to subsidize or reward "art" which is blasphemous or obscene. Congress unwisely enacted only a severely weakened version of the amendment that does not even prohibit funding for such works as those by Mapplethorpe and Serrano—which created the controversy. Even so, this weakened amendment has been the target of unfounded and often absurd criticisms.

Opponents of the legislation often make the following unfounded and misleading allegations:

1. Restrictions on federal funding for the arts constitutes direct censorship

This is a deliberate attempt to confuse censorship with sponsorship. Such deliberate misrepresentations are intellectually dishonest.

The Constitution gives Congress the responsibility and duty to oversee the expenditure of all federal funds—including funding for the arts. The amendment originally proposed, as well as the one passed, was intended to forbid the federal government from taking money from citizens by force and then using it to subsidize or reward obscene or blasphemous art. The amendment clearly limits the issue to the question of whether the government should use tax funds in the role of a patron (sponsor) for such "art." The legislation in no way "censors" artist; it does not prevent artists from producing, creating, or displaying blasphemous or obscene "art" at their own expense in the private sector.

Therefore, sanctions comparisons between the amendment and communist dictatorships in Eastern Europe fall on their face. In communist countries everything is paid for by the government; therefore, if not approved by the government, it is not produced. Western democracies, on the other hand, rely on the private sector where ideas are left free to compete with minimal or no governmental participation.

Thus, it should be obvious to all that, despite the amendment, American artists who choose to shock and offend the public can still do so—but at their own expense, not the taxpayers'. Censorship is not involved when the government refuses to subsidize such "artists." People who want to scrawl dirty words on the men's-room wall should furnish their own walls and their own crayons. It is tyranny, as Jefferson said in another context, to force taxpayers to support private activities which are by intent abhorrent and repulsive.

The enormous response I have received from throughout the country indicates that the vast majority of Americans support my amendment because they were aghast to learn that their tax money has been used to reward artists who had elected to depict sadomasochism, perverted homoerotic sex acts, and sexual exploitation of children.

2. Subsidizing some art forms but not others (obscene art) constitutes indirect censorship

If this is true—and it isn't—the NEA has been in the censorship business for 25 years, which means that the only way to get the government completely out of the "censorship business" is to dismantle the NEA.

By its very nature, the NEA has the duty to establish criteria for funding some art while not funding others. So, those who are crying "censorship" in this regard are ignoring the defect of their logic (or lack thereof). Do they not see that, following their logic, every applicant denied federal funding can protest that he has been "censored" by the subjective value judgments of the NEA's artistic panels?

3. Is there such a thing as obscene art?

The vast majority of taxpayers would first ask themselves whether something is obscene—and if it is, then it's not art. However, some verbose art experts—and the NEA—do just the opposite. Anything they regard as "art" cannot be obscene no matter how revolting, decadent, or repulsive. As NEA's Chairman John Frohnmayer told a California newspaper. "If an [NEA art] panel finds there is serious artistic intent and quality in a particular piece of work, then by definition that is not going to be obscene."

4. Federal funding restrictions must use the obscenity definition outlined by the Supreme Court in Miller v. California?

It is important to remember that the Supreme Court has never established an obscenity definition for the purposes of restricting government funding. But Chairman Frohnmayer and the "arts community" erroneously assert that the Constitution requires that the definition in *Miller* v. *California* be used in both restricting federal funding and banning obscenity. However, refusing to subsidize something does not "ban" it. In order to BAN obscenity, *Miller* v. *California* requires the government to prove that materials: (1) appeal to a prurient interest; (2) depict in a patently offensive manner sexual or excretory activities or organs; and (3) lack serious artistic or scientific value.

Numerous cases show that the Court does not apply the same standards to government's refusal to fund First Amendment activities as it does to the government's effort to ban such activities.

For example, in *Maher* v. *Roe*, the Court stated that merely because one has a Constitutional right to engage in an activity, he or she does not have a Constitutional right to Federal funding of that activity. As long ago as 1942, in *Wickard* v. *Filburn*, the Court stated that, "It is hardly lack of due process for the Government to regulate that which it subsidizes." And recently as 1983, in *Regan v. Taxation With Representation*, a unanimous Court reiterated a litany of cases holding that restriction on the use of taxpayers' funds, in the area of expressive speech, do not violate the First Amendment and need not meet the same strict standards of scrutiny.

Thus, it is unlikely that the Supreme Court would require Congress to use *Miller* test in its entirety in order to prohibit the NEA from funding obscenity. In fact, I believe the Court would uphold a Congressional prohibition on funding for any patently offensive depictions or descriptions of sexual or excretory activities or organs regardless of the presence of absence of artistic merit.

It would be interesting if Congress should decide to adopt the *Miller* standard in its entirety because *Miller* allowed a jury of ordinary citizens to decide if something is or is not obscene. The 1989 amendment approved by Congress on the other hand, effectively grants the NEA and its elitist arts panels sole authority to decide what is or is not obscene for purposes of government funding.

Thus, the legal effect of the current law is to prohibit nothing. The NEA can cloak even the most patently offensive depictions of sexual or excretory conduct with "artistic merit" simply by deciding to fund the work, thereby making it legally non-obscene. This was precisely what the current amendment's drafters intended since they wanted to deceive the public into assuming that federal funding for obscenity had been prohibited—when, as a legal matter, it has not. Since last fall, Chairman Frohnmayer has asserted that he would and could fund the Mapplethorpe exhibit under the language passed by Congress.

5. The original Helms amendment is not enforceable

This is nonsense, and those who say that know that it's nonsense. There was nothing vague about it—and the Federal Communications Commission is having no problem making the determination that various broadcasts are indecent and/or obscene. The Postal Service is able to do the same thing concerning obscene or indecent mail. The Justice Department's National Obscenity Task Force has been able to determine what is obscene under the federal criminal statutes.

If the FCC, the Postal Service, and the National Obscenity Task Force can handle their responsibilities in this regard, why cannot the National Endowment for the Arts do likewise?

6. The amendment chills artistic expression

The "arts community" is fond of asserting that prohibiting NEA funding of obscene art will either "destroy art in America" or, at best, "lead to art which is bland." On the other hand, they also argue that the NEA has funded only about 20 controversial works out of 85,000 grants over the last 25 years. (This, by the way, is statistical manipulation, but that's an argument for another day.)

The point is this: The "arts community" cannot have it both ways. Either the NEA is funding so many controversial works that eliminating such funding will devastate the arts community—or the NEA has funded so few (20 in 25 years) that an obscenity restriction could have no more than a negligible impact.

My response to the first argument is that if art in America is so dependent on obscenity in order to be creative and different, then Congress has a duty to the taxpayers to shut the NEA down completely, thereby slowing America's slide into the sewer. My answer to the second argument is that if so few offensive works have indeed been subsidized by the NEA, why all the fuss from the "arts community"?

In summary, the National Endowment for the Arts has always had the responsibility and the duty to decide what is and is not suitable for federal funding of the arts—and that has been precisely the problem. The NEA has defaulted upon that responsibility. It has been insulated from mainstream American values so long that it has become captive to a morally decadent minority which delights in ridiculing the values and beliefs of decent, moral taxpayers.

It should therefore be evident that as long as the NEA is given the sole authority to decide what is artistic—and thus not obscene—the agency intends to continue to fund obscenity under the pretense that it is "art"—even when the taxpayers disagree. Congress, at a minimum, should use the entire Miller test by allowing a panel of lay citizens—and not the self-appointed elitists at the NEA—to decide whether patently offensive works merit taxpayer funding.

Or Congress could just adopt my original amendment, and let the "art community" continue to howl.

Mr. HELMS. Mr. President, I move to concur in the House amendment with a further amendment that I now send to the desk.

Mr. BYRD. Mr. President, before the distinguished Senator makes that motion, would he allow Senator METZENBAUM to make some remarks? We only have an hour and half between us, 45 minutes each, and the distinguished Senator has very appropriately—and I would have done the same thing were I in his place—used sometime before making his motion because the time will start running when it is on the motion.

Mr. HELMS. I understand.

Mr. BYRD. I have several speakers, and they more than can be accommodated in the 45 minutes. Will the Senator withhold and let Senator METZENBAUM at least make his remarks? I would appreciate that.

Mr. HELMS. I now have the floor, do I not, Mr. President?

The PRESIDING OFFICER. Yes.

Mr. HELMS. I will be glad to yield to Senator METZENBAUM for whatever remarks he may make, provided I not lose my right to the floor.

Mr. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank my colleague from North Carolina for his courtesy.

Mr. President, no one would ever say that the Senator from North Carolina is not persistent.

Mr. President, by my count this is the ninth time in 2 years that the Senator from North Carolina has seen fit to raise an issue or to offer an amendment to interfere with the operation of the National Endowment for the Arts.

We who support the arts community here on the Senate floor have bent over backwards to accommodate the concerns of the Senator about Federal funding of artistic works. We have addressed the issue of obscenity.

Nevertheless, it seems that every few months we are confronted again with yet another attack on the arts endowment, yet another amendment dealing with the issue of perceived obscenity—an issue that we clearly settled when the endowment was reauthorized last year.

Let us take a look at the history of this issue.

On July 26, 1989, just over 2 years ago, the Senate accepted an amendment offered by the Senator from North Carolina to the Interior appropriation bill prohibiting funding for the dissemination, promotion or production of obscene or indecent materials or materials denigrating a particular religion or nonreligion.

Two months later, the Senator attempted to put the Senate on record in support of his original amendment to the Interior bill. In that effort, he failed by a vote of 65 to 35.

Instead, the Senate passed by a vote of 65 to 31 a modified Helms amendment expressing the sense of the Senate that the conferees should accept modified language prohibiting funding for obscene materials.

A few weeks later, the Senate passed the Interior conference report, which included specific language on obscenity. That was not good enough for the Senator from North Carolina. He offered a stronger amendment, and it was tabled by a vote of 62 yeas to 35 nays.

The final conference agreement prohibited the use of funds for materials, which in the judgment of the endowment, were obscene.

As a result, the Endowment Chairman subsequently required artists to

certify that their works were not obscene—the equivalent of an artist's loyalty oath.

I am frank to say that I disagreed with requiring an artist to have to take such an oath. But that was the practice.

This arrangement proved essentially unworkable. Many recipients turned down grants. Long time, established organizations and individuals, including the New York Shakespeare Festival, choreographer Bell Lewitzky, and the Kenyon review at Kenyon College in Ohio turned down grants rather than sign the oath. Hundreds of awardees protested the requirement.

To resolve the issue, the Senate Labor and Human Resources Committee, the appropriate authorizing committee with jurisdiction over the National Endowment for the Arts, approved a reauthorization bill in 1990.

The bill ensured that no Federal funds would be used to support obscenity, while leaving the determination of obscenity in the courts, where it belongs.

On October 24, 1990, during consideration of the Interior appropriations bill the Senate agreed by a vote of 73 to 24 to include the reauthorization language on obscenity in the appropriation bill.

At that time, the Senator from North Carolina again offered an amendment to insert content restrictions. His amendment was rejected by a vote of 70 to 29.

The Senator's second amendment forbidding the funding of material that denigrates religion passed by voice vote.

Then the Senator from North Carolina offered another amendment, which was rejected, that would have limited the use of financial aid funds.

A week later, both the House and Senate approved the Interior conference report, which included the entire House national endowment reauthorization bill—including language prohibiting funding of projects determined to be obscene.

At that point, Mr. President, many of us thought—I think the entire Congress thought, and maybe much of the Nation thought, those who have had an interest in the issue—that we have resolved the issue.

Obscene work would not be funded. If questionable work somehow slipped through, and was later judged obscene by a court under the community standards test, then the artist would have to pay back the grant. If it were determined by the courts to be obscene and had slipped through the process, it would have to be returned by the artist who had received the grant. And that artist, furthermore, would be banned from receiving future funds until the grant was actually repaid.

But that was not satisfactory to the Senator from North Carolina.

On September 19, 1991, he again returned to the floor, as was his right, and he offered, and the Senate passed, 68 to 28 still another amendment prohibiting the use of funds for materials that "depict or describe, in a patently offensive way, sexual or excretory activities or organs.

Incidentally, this is virtually the same amendment that the Senate rejected by a vote of 70 to 29 during consideration of last year's Interior appropriations bill.

What this amendment did was preempt the courts from the process. Rather than going to court to determine whether art is obscene based on the values of the local community, the Chairman of the National Endowment would make the decision—himself—and not based on whether the work is obscene—but whether it is "patently offensive" and I am frank to say I do not know how that would be determined.

A second amendment from the Senator from North Carolina, designed to split the arts community against itself by shifting NEA funds to the States, was withdrawn by him.

Nine amendments and 2 years later, we are right back where we started.

Mr. President, this Senator believes that enough is enough. Let us put this issue to rest.

This amendment is unnecessary. Despite all the unfounded and unsubstantiated rhetoric, the Endowment has a record of which all of us can be proud. For 26 years, it has had a record of unparalleled achievement as a national endowment for the arts throughout the world. There is nothing comparable.

This Endowment encourages and supports artists, and it promotes excellence in dance, theater, music, the visual arts and other fields. It has brought great works of art to Americans in virtually every corner of our Nation. The Endowment has leveraged millions of dollars of support for the arts from the private sector, and has contributed to economic development, revitalizing inner-cities, stimulating revenue, creating jobs and giving Americans a greater opportunity to enjoy, view, and participate in the arts.

Have there been some situations that maybe were questionable? Of course. They make thousands upon thousands of awards. And out of thousands of grants only a very few have been controversial. And during the lengthy reauthorization process, we did, indeed, include a number of significant reforms—reforms to increase accountability, and to prevent art determined as being obscene from being funded. It only makes sense to let the reforms have a chance to work before imposing new restrictions on the Endowment.

The Bipartisan Independent Commission established by the Congress to look into the issue specially recommended against content restrictions in the NEA grant process.

To quote from their report—and I want to emphasize, Mr. President, it was bipartisan, it was independent, it was established by the Congress to deal with these very kinds of issues.

> The Independent Commission recommends against legislative changes to impose specific restrictions on the content of works of art supported by the Endowment. Content restrictions may raise serious constitutional issues, would be inherently ambiguous and would almost certainly involve the Endowment and the Department of Justice in costly and unproductive lawsuits.

I am frank to say that I do not believe any of us in this body are in a position to say what is or what is not art. I have difficulty understanding exactly what the Senator from North Carolina wants the Senate to do.

Would he actually want to abolish the National Endowment for the Arts? In one of the amendments he had proposed it provided for distribution of the funds on a State-by-State basis and would literally have emasculated the National Endowment for the Arts. I cannot believe the Senator from North Carolina would want that. He comes from a State that has a rich tradition of cultural leadership. But if he wants to ensure that obscene works of art do not receive Federal taxpayer funding, if that be his objective, he has already won that battle. We have already done it. We do not have to do it every 3 months, or 6 months, or every year.

Mr. President, I hope my colleagues will recognize the important contributions which the Endowment has made to our cultural life and the enormous benefits that it has brought to communities throughout this country. And I hope at an appropriate time those who are handling this measure will see fit to table it, and if they offer such a motion I commit myself to support it.

I yield the floor and thank the Senator from West Virginia for arranging for the Senator from Ohio to have adequate time to speak.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Carolina.

Mr. HELMS. I now move to concur with the House amendment, with a further amendment that I send to the desk.

I did not have a microphone. Did the Chair hear?

I now move to concur in the House amendment, with a further amendment that I will send to the desk.

The PRESIDING OFFICER. The pending amendment is Senate amendment 130, so that motion is not in order at this time.

Mr. HELMS. I yield the floor.

Mr. BYRD. Mr. President, may we have a reading of the amendment?

Mr. President, I ask unanimous consent that the pending amendment, which I believe is No. 130, be temporarily set aside so that the Senator may be allowed to go to the next amendment, which is 164.

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

AMENDMENT NO. 1299 TO AMENDMENT IN DISAGREEMENT NO. 164

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1299 to Amendment in Disagreement No. 164.

At the end of the amendment, add the following:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the National Endowment for the Arts under this Act may be used to promote, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs.".

The PRESIDING OFFICER (Mr. FOWLER). The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The Chair's understanding is that there are, by agreement, 90 minutes allocated for this amendment equally divided between the managers of the bill, proponents of the bill and the opponents.

Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Illinois 2 minutes.

The PRESIDING OFFICER. The Senator from Illinois [Mr. SIMON] is recognized for 2 minutes.

Mr. SIMON. Mr. President, I voted for the earlier amendment that was offered by the Senator from North Carolina and, while I shall support the chairman of the Appropriations Committee, who also serves as chairman of the subcommittee of jurisdiction here, one very specific item that did concern me was a Journal that was shown to me that was gross, crude, it violates the most elemental standards. But on checking into it further I discovered that the National Endowment for the Arts requested the money, $1,400 for that, requested that be returned, and it is in the process of, if necessary, litigating on that.

It does seem to me that the National Endowment for the Arts is handling its responsibility as it should.

As has been pointed out, there are about 85,000 grants that have been made by the National Endowment for the Arts, about 20 of which have been controversial. That, frankly, is not a bad record.

Again, I do not defend for a moment money going for this kind of a journal it should not have gone for. But that was not the intent of the grant. Those who received the grant apparently violated, clearly, the express understanding, written understanding with the National Endowment for the Arts.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield myself such time as I may require. I am obliged to respond to my friend and neighbor, the distinguished Senator from Illinois.

Inside the packet we are talking about is the publication he was talking about. It is called "Performance Journal 3," which was produced by an organization called "Movement Research," in New York City.

Movement Research received a $4,400 grant from the NEA this year to provide, "general services to the dance field," and to help publish this so-called journal which, by the way, goes out free of charge to about 15,000 people.

Mr. President, I have highlighted certain sections of this disgusting journal that Senators may find of interest, including the following:

Explicit nude photos—taken by NEA-funded porn star Annie Sprinkle—of surgically created hermaphrodites (people with both male and female sex organs.)

Nude photographs and articles featuring a variety of so-called "gender confused" people including transvestites, transsexuals, cross-dressers, and—a new one on me—"transgenderists."

A fictional story, written in the first person by Lazarus, describing his homosexual liaisons with Jesus both before and after His resurrection.

A full-page ad—two thirds of which consists of a photograph of a vagina and accompanied by the large caption, "Read My Lips Before They're Sealed."

Yet another ad urging readers to join a Washington, D.C. protest against President Bush's "murderous inaction" on AIDS.

Mr. SIMON. Will my colleague yield?

Mr. HELMS. I will in just one moment.

There are numerous other equally sickening passages and depictions that are also highlighted.

To get specifically to what my friend from Illinois was saying, it is true that the NEA is now trying to get $1,400 of its money back—the amount NEA's auditors say Movement Research used to create this publication. Of course, the NEA and others now cite these actions as an example of how last year's so-called obscenity prohibition is working. It is not working.

And that is absolutely untrue. I do not doubt the sincerity of my friend from Illinois, but I say to him, he is sincerely wrong, because as the NEA's letter to Movement Research and the Washington Post article in the Senators' packets acknowledges, the NEA did not—did not—try to get the taxpayers' money back on the grounds that the publication violated last year's obscenity standards.

In attempting to get these tax funds back, the NEA was forced to resort to another part of the law that prohibits the use of Federal funds to lobby Congress together with two technical errors Movement Research made on its application for NEA funding. That is a far cry from doing anything effective about the real issue.

The NEA did not—and could not—try to recover its money on the grounds that the publication is disgustingly offensive because under current law, which the House of Representatives substituted for the Senate language approved overwhelmingly by the Senate on September 19 in the pending conference report, the language in the conference report now pending. The fact is, under current law and the conference report, for the NEA to succeed in recovering the money on the grounds that a work is obscene, an artist must first be arrested, a jury must then convict him or her of producing criminally obscene materials, and, finally, even after the conviction, the NEA must then wait until the convicted artist has exhausted all of his or her legal appeals.

Now what kind of enforcement is that? What all that means is that if Movement Research had left out the one sentence in this sickening journal that urged its patrons to contact their Senators, and if it had fixed the two somewhat arbitrary determinations of technical violations as cited by the NEA, the NEA would be powerless under current law, and under the language in this conference report, to even try to get the taxpayers' money back.

I know the Senator from Illinois did not know that. Otherwise, he would not have represented it to the contrary.

However, if the pending amendment were now law, the NEA could recover the taxpayers' money—without having to resort to back door, after-the-fact, technicalities—because this publication obviously contains material that "depicts [and] describes, in a patently offensive way, sexual or excretory activities [and] organs—material and descriptions that would be prohibited under the pending amendment.

Mr. President, the NEA obviously thinks that the activities of the crowd that put this garbage together is high art and that average Americans should be compelled to subsidize them out of their paychecks because the NEA has given movement research a grant almost every year since 1984.

Now is the time to put a stop to such outrages. The fact that the NEA was forced to resort to technical violations to get its money back shows beyond a doubt that the current law embodied in the conference report is totally ineffective. If Senators want a real law that will stop these outrages—instead of tough-sounding but ineffective verbiage—they should resoundingly support the pending amendment.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, how much time does Mr. Jeffords want?

Mr. JEFFORDS. I inquire whether I can be allocated 5 minutes of time.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Vermont [Mr. JEFFORDS] is recognized.

Mr. JEFFORDS. Mr. President, first let me respond to the Senator from North Carolina with respect to the particular work he was referring to. I have talked to the Chairman of the Endowment, Mr. Frohnmayer. He assured me the NEA is taking action in order to prevent the kind of abuse that has occurred with respect to the utilization of Endowment funds, and that the Endowment has made provisions in its contracts and grants which allow for review, to protect the public against such misuse.

So the fact that it was brought under the terms of the grant rather than under the legislation is not important. The important thing is that because of the actions of the Senator from North Carolina and the votes of this body and others, action is being taken by the Endowment in order to protect against abuse, and they are seeking the return of the funds. I wanted to make that clear.

Before going on to the Endowment, I would just like to make a couple of other small points about the conference report that we have before us.

First, Mr. President, a small but important item. Seventeen of my colleagues and I sent a letter to Chairman BYRD and Senator NICKLES urging them and fellow Senate conferees to recede to the House funding level for the Energy Information Administration's [EIA] "State Energy Price and Expenditure Report." The House provided $75,000 for that report.

The conferees instructed EIA to continue publishing the "State Energy Price and Expenditure Report," but did not provide funds for doing so. The "State Energy Price and Expenditure Report" is a very important document. It just happens that they have taken this up on the same day the energy bill was discussed. It is ironic we would be talking about both today. EIA is supposed to find the money from other accounts.

I find it ironic that we have commenced debate on S. 1220—comprehensive energy strategy legislation—but are unwilling to appropriate modest sums of money so EIA can provide us with the information we need to make informed energy policy decisions. The "State Energy Price and Expenditure Report" provides the only data of that sort available at the State level. I think we are being "penny wise and pound foolish" in this regard.

Second, Mr. President, the conference report does not contain any increase in the fee for grazing on Federal rangelands.

For the second year in a row, the conference committee has come back with directions to the committees with jurisdiction to take action. I bring that out because I know at the time I was arguing this issue, with the Senator from Ohio, a number of my colleagues came to me and said, "we would vote with you because we realize that this is wrong, but, we have the word of the people who are involved with this that they are going to solve it in the conference report * * * they are willing to make changes. Thus, we will not vote with you."

I just want to point out to those colleagues who gave me that reasoning, again, we are going to have to revisit it, hopefully, and make everyone aware that the appropriate committee, the Energy Committee, should bring out something to help us in that regard.

Finally, again, I want to go back to the NEA. I am not going to repeat the arguments that have already been made but I will just point out again that we are talking about aberrations in the normal situation, only 20 out of some 85,000 grants have raised the kind of problems that we see. It is just something that disturbs me to think that we have to keep bringing this up because I am a strong supporter of the NEA. It has greatly enriched America's society.

It has supported artists and writers. It has brought the arts to communities in America that otherwise would not benefit. It has initiated arts programs in schools.

Some claim that the current funding patterns of the NEA favor large cities to the disadvantage of small communities. Again, I say, wrong. As a Senator from the State of Vermont—a State which 47 other States outsize—I fully support the current funding patterns of the NEA. Let me cite a few examples of the good work NEA has sponsored in Vermont recently:

In 1990, the NEA provided a grant to the Vermont Council on the Arts to launch an arts program for rural Vermont school districts.

In 1991, NEA grants have supported the Vermont Mozart Festival, the Flynn Theatre for the Performing Arts, the Marlboro School of Music, and the Catamount Film & Arts Co.

The NEA has also funded a workshop to support the art of elderly and rural Vermonters and a project to preserve art and historical collections throughout the State.

These are just a few examples of recent NEA grants in my State. These grants help children, rural Vermonters and elderly citizens. These grants bring classical music and dance to the small cities of Vermont. These grants are what the National Endowment for the Arts is all about. It is not about a few aberrations which occur because of the vast number of people who benefit and take advantage of the various grants that we have.

Let me turn now to the underlying political issues. We are elected to defend the principles of the Constitution, not to bend with every whim and wind that may blow to raise discredit upon these fine programs.

Our Nation was founded in order to guard the right of individual Americans to say what they want to say and to pray where they want to pray. The Congress of the United States of America should not be party to any effort that curtails these rights. Courts of law shall determine what is and is not obscene, not the U.S. Senate.

As an American citizen, I would rather be offended by the works or words of a fellow free American than have my own rights of free speech abridged.

As an American citizen, I do not want to support mundane and mediocre art simply because it offends no one. I want to be challenged and inspired. Let us not reduce art to a painting of an owl on a rock simply because it offends no one. It also inspires no one.

Of course, the opinions of some are going to be offensive to some others. Of course, artists worth their salt will venture into new areas—areas which may uplift us, mystify us or make us downright angry. That is a price America has always wanted to pay to preserve its freedom, its freedom of speech and expression. I take my hat off to the NEA for finding 84,980 projects to fund that did not create controversy but created inspiration and help to our arts. This is a remarkable accomplishment.

It is America's willingness to challenge the status quo and conventional wisdom that has fostered America's great contributions to the arts and sciences. Because we allow our citizens to think and create and invent whatever they want, our Nation has soared. Let us not now be party to any legislation that would clip those wings. Let us not become slugs, afraid to look up, afraid to try, crawling where we once flew high.

I yield the floor.

The PRESIDING OFFICER (Mr. CONRAD). Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Nevada. How much time does he require?

Mr. REID. About 6 minutes.

Mr. BYRD. Mr. President, I yield 6 minutes to the distinguished Senator.

The PRESIDING OFFICER. The Senator from Nevada, Mr. REID, is recognized for 6 minutes.

Mr. REID. Mr. President, I endorse final passage of this conference report on this very major appropriations bill. The issue of disagreement over specific issues always exists when a number of people gather to resolve their differences over questions of immense proportion and significance, such as the items in this report. But we should not commit what Mr. Eulau referred to as ecological fallacy, what some of us refer to as not being able to see the forest for the trees.

This legislation is about the future health care and education for thousands of Native Americans, such as the Dunseith Elementary School Expansion and the Eastern Cheyenne River School new construction in North Dakota. These are real projects that help real people. And the Crow Montana Indian Hospital in Montana, the Indian Hospital being built in Wager, SD, and the Native American Culture and Arts Program in Hawaii are a few of the examples of programs that absolutely must go forward if we are to provide adequate services for Native Americans in this country.

We have a lot of problems, Mr. President. We talk about what needs to be done with the Kurds in Turkey and Iran and Iraq. But let us start talking about people who live in our country who need help. This legislation helps people. The status of Indian schools in this country is a disgrace, a national disgrace, and this bill is doing something to solve some of those problems.

Mr. President, there is in this bill money for an Indian school in the State of Nevada, Pyramid Lake Indian School, a school that is so old parts of it have been condemned. This school is in such bad shape that they have to have school on different parts of this spread-out campus, using the word very liberally, but people have to cross a major thoroughfare to go to parts of the school. The school does not have many students in it now. Why? Because it is such a disgrace, not only to Native Americans but to people of the State of Nevada, and it should be a disgrace to the people in Washington, DC, who serve in this administration and this Congress.

So this legislation does something to help people in America. This legislation makes provision to upgrade and protect the future of many of our national parks, such as the Big South Fork National River and Recreation Area in Kentucky, the Canyonlands National Park in Utah, the Everglades National Park in Florida, the Council Bluffs National Trail Center in Council Bluffs, IA, the Hawaii Volcanoes National Park in Hawaii, and, yes, Mr. President, the newest national park of them all, the Great Basin National Park in Nevada, to name just a few of the things this bill does to improve national parks in this country that have been neglected over the last decade or two.

This legislation provides research and resource management moneys for national forests in this country, programs in Nebraska like the agroforestry program in Lincoln, and a biodiversity program in Grand Island, NE. In the Pacific Northwest there is the Mount Saint Helens Visitors Center, which we know is so important in that part of the country.

Mr. President, this legislation is about providing jobs; protecting endangered species; fire suppression in our national forests; land acquisition in environmentally sensitive areas, areas that, if we do not do something with this bill this year, will be subdivided and lost forever to this country; protection of wetlands. Mr. President, this legislation will help preserve a place in Nevada that is not important to Nevada only but important to the entire country because it is preserving part of the great North American flyway. We are having fewer and fewer waterfowl migrating south. Why? Because of the stillwater marshlands in Nevada that have been destroyed by virtue of what is happening with diverting rivers and things of that nature. This legislation will provide the ability for waterfowl to go south, so to speak. It is so important. Because of this legislation, the first freshwater in 80 years will go into that marshland.

Surely the Members of this body have the wisdom and vision to see that this bill is not about a few special projects or interests, nor should it be reduced to a debate on specific ideological differences.

It should be abundantly clear that I do not support pornography, nor does anyone in this Chamber support pornography. I have supported time and time again my friend from North Carolina with the amendments he has offered, which we refer to as the Helms amendment. I do not appreciate, respect, or want to look at some woman that is stripped naked and has smeared her body with chocolate, but as has been indicated, Mr. President, and will be indicated, that is a small minority of what the NEA does. Whatever it does and allows is too much, and I want to work with my friend from North Carolina to stop that. But it will not be stopped. We worked in that conference for not hours, but days, trying to work something out, and we were not able to preserve the Helms amendment. We tried. We were not able to do that.

We have here a compromise. That is what legislation is about. I have voted with Senator HELMS. I have voted with Senator HATCH.

Mr. President, may I have an additional 2 minutes. I ask the chairman of the committee for an additional 2 minutes.

Mr. BYRD. Mr. President, I am going to have a little difficulty with time. I yield to the Senator 2 additional minutes.

Mr. REID. I supported Senator HATCH, along with 64 other Senators, during the debate. I cast that vote because I share the concern that many of you have about the present method by which grants are made by the National Endowment for the Arts for certain projects that many of us consider obscene.

I will continue to support efforts to resolve that problem with my colleagues, but we cannot let this bill go to the House of Representatives. I have served there. The Rules Committee is all powerful over there. They will find a way, if this is sent back, to put other matters that are contentious back into this bill and will cause many of us to lose things that are important to this country and to our respective States.

This legislation is important for the people of this country, and I think the conferees who worked with this arduously and diligently should be patted on the back for the work that was done in being able to arrive at a bill that we now have in this process. I extended my hand, after we finished that conference, to the chairman of the Appropriations Committee from this Senate, who was able, with his experience and his wisdom, to get us to the position we now are. The chairman of the Appropriations Committee certainly does not approve pornography, nor does any person on this committee and in this body.

So I think this body has an obligation to pass this extremely important appropriations bill and send it to the President for signature without further delay.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield—how much time does the Snator from New Mexico want?

Mr. DOMENICI. Five minutes.

Mr. BYRD. I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, let me say at the outset so there will be no misunderstanding, I normally support Senator HELMS. Today, I will not. I will support the chairman of the committee, who will attempt to table the amendment.

I hope that everyone understands that in this situation we have tried our best to uphold the Senate position. We went to conference. There were many difficult issues. Senator HELMS wanted to change a statute which is just 1 year old, that is, the basic underlying law is 1 year old. Senator HELMS wanted that law changed, and most of the Senators wanted it changed, but there were many things in the bill that we had to work out. And as it turns out, the two most contentious issues were resolved, one in favor of the Senate, and one in favor of the House. It turns out that on the NEA issue the situation was resolved in favor of the House. On another issue that was important to many here, it was resolved in favor of the Senate.

Frankly, I am convinced that because the issues are so contentious, and we are well into the year—actually, this law should have been passed by October 1—I am certain that if we send it back to the House, we will be in this particular muddle for days and weeks to come, and the outcome on

many issues that have already been resolved will again be in question.

So it is with regret that I suggest we leave the law for NEA alone and that we ask the Chairman of NEA, Chairman Frohnmayer, to enforce the law as best he can with vigor and with concern. It might come as a surprise to some that this law that we wrote 1 year ago, while it is difficult and onerous and hard to interpret, has worked both ways, believe it or not. There a number of law suits pending against the NEA for enforcing this law, just as there are some who are very concerned because some of the art that is funded, indeed, seems not to fit their idea of what is the kind of art for which taxpayer funds should pay.

I do not support the proposition that things we pay for with taxpayers' dollars, that we can otherwise say we are not going to support, are entitled to all of the constitutional protections. I do not believe that for a minute. I do not think the Supreme Court is ever going to say that. But I do think this is a tough area to administer.

I think those who are running NEA ought to understand in our handling of these issues that we are serious about administering this law. That means that NEA should be tough, and should give the benefit of the doubt to the statute and to the Congress, which is clearly concerned about taxpayer support for the kinds of things that the average public would not want around or care to see.

Again, may I say, whereas I would normally support the distinguished Senator, Senator HELMS, I am not today because I think we ought to resolve this conference. We ought to finish this bill. One big issue went our way, one big issue went the House's way, and we have finished the bill.

For those who are wondering about this bill, it is an excellent bill. You can argue the issue I have just discussed, but this is an excellent bill. There are many appropriations bills that are spending more than they should under the budget agreement by delaying outlays until next year. Of delayed appropriations, this bill has $37 million in outlays of that kind of funding. That is not very much for the huge expenditures in this bill. It is done because there was no other way to handle certain Indian claims settlements.

I might suggest that most matters have been resolved in favor of good, sound fiscal policy. This is probably the leanest appropriations bill that we had. It had less in funding increases, and we accomplished more with these funds because of the prudence of those putting the bill together, and the help and cooperation of the Senators and all of their staffs.

It seems to me when you have a bill that is this good, the major issues of contention have been resolved, one for the House and one for the Senate—and I repeat, we are only talking about a 1-year-old statute on NEA that the Senate sought change—it seems to me that we should wind this matter up, finish the bill, pass it, and send it to the President for signature.

Let me suggest before I close that I am not going to be saying such kind words about other bills in terms of the overall budget and the 5-year budget agreement. The two remaining bills may put significant pressure on next years spending caps. There will not be any point of order against those bills.

In the House, I have heard many Members say, Mr. Chairman, that we should cut Defense spending more; that is what we are hearing. Well, in the House Defense appropriations bills, they have delayed appropriations of over $2.4 billion in Defense outlays until next year. In other words, they spent every penny we allocated them, and then took $3.3 billion more in program spending and said we will provide these funds later in the fiscal year. That is not very consistent with wanting to cut defense, I say. It seems to me they cannot, even with what they have, stay within their spending allocation. They want more.

The Senate did not do that, but the House did. The Senate, however, did the same thing in the Labor, Health and Human Services, and Education bill I must admit. We do not know the final numbers yet. We have very significant increases for domestic discretionary spending in that bill. That was not enough either. The conferees have delayed the obligation of some $4.3 billion in budget authority until late in the fiscal year, shifting perhaps $3 billion in outlays until fiscal year 1993. We will talk about that at another time.

I raise this issue because this bill does not use this budgetary device. When you get a bill that was already very restrained—and I have to compliment the chairman and the ranking member, Senator NICKLES, for the fine job they have done—you have to pass the bill they bring back from conference and take their recommendations.

So I hope the Senate will do that. The contentions about NEA, and whether its activities under its charter are right or wrong, will live to be argued another day.

I yield the floor. I thank the Chairman for the time.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. HELMS. Mr. President, I think I will suggest the absence of a quorum, and hope that it will be charged equally to both sides.

Mr. BYRD. Mr. President, I would not want it to be charged equally. I thought the Senator from Indiana wished to speak.

Does the Senator wish their side to take two in a row? Very well.

Mr. WIRTH. Will the Senator from North Carolina yield to me 5 minutes while we are waiting? Would that be agreeable to the Senator from North Carolina, from the time allocated to him.

Mr. HELMS. I have to inquire which way the Senator is going to vote.

Mr. WIRTH. I have some statements to make about the amendment offered by the distinguished Senator from North Carolina.

Mr. HELMS. Pro or con?

Mr. WIRTH. Just questions and observations about the amendment. I do not intend to make any statements pro or con on the amendment, but only to make observations about the amendment.

Mr. HELMS. My friend will understand that our time is limited, too.

Mr. WIRTH. Mr. President, rather than have the time charged equally to both sides, I thought we might use this up in a constructive way.

Mr. BYRD. Mr. President, I yield 5 minutes to the distinguished Senator.

Mr. WIRTH. I thank the distinguished chairman of the committee.

Mr. President, first of all, I ask all the ladies employed by the Senate, and young people who are here as pages, to shield their eyes as they were asked to earlier today. Mr. President, I know there is a lot of very careful and legalistic thought about this amendment, but there are other things, Mr. President, that must be said about this amendment.

So, hoping that people are shielding their eyes, Mr. President—Mr. President, if I might, this is a reproduction of a Titian, Venus with a Mirror. Titian was a very fine Venetian painter, Mr. President, and probably dominated Italian painting in the 16th century. This particular work, could not have been supported with Federal funds under the amendment we are discussing on the floor today.

More recently, if you would shield your eyes further, Mr. President, we have here Toulouse-Lautrec, A Paris Street Scene, painted in the late 19th century. This distinguished painter could not receive Federal support to complete this work.

I am sorry that the distinguished author of the amendment is not here. Let me, if I might, turn this back around so people will not have to see this painting.

Mr. President, let me enter into the RECORD, an editorial from the Denver Post, which I will paraphrase. It comments on the amendment offered by the Senator from North Carolina which states:

> No appropriations are to promote, disseminate or produce materials that depict excretory activities or organs.

Mr. President, had the supporters of this amendment ever passed a basic biology course, they would have known that the skin is classified as an organ of the body——

Mr. COATS. Will the Senator from Colorado yield for a question?

Mr. WIRTH. When I am finished, there is lots of time—and that perspiration, among other natural functions, is unquestionably an excretion. Of course, deodorant companies spend millions of dollars each year to convince consumers that sweat is patently offensive.

Our Government could not fund a Titian which pictures skin, or Toulouse-Lautrec, or any of a number of other items.

What else might happen if we enact this amendment? The absurdity of this comes home to us when we look at great pieces of Western literature. From Cervantes' second book, which I have earned with the sweat of my brows, the National Endowment for the Arts would not be able to support such literature. Or, even Shakespeare. We all know from our high school course, the critical question, To be or not to be, and two-thirds of the way through that it refers to grunt and sweat under a weary life.

That sort of thing, reference to an excretory organ, we would not be able to support, or have in any kind of exhibit, or have in any kind of a library, because sweat or skin may very well be patently offensive to someone in the Government, and we could not support it.

Think about it, Longfellow, "His brow is wet with honest sweat. He earns what-e'er he can," would be outlawed as well.

I understand the legalisms involved here, but who are we to be making this kind of a judgment? We have some basic freedoms in this country, and the reason for us to be offering this kind of amendment, and in fact taking it as seriously as we do, escapes me, as it should all Americans, who are looking at what we do in this institution.

I close with a couple of sentences out of this very fine editorial: "We would hope that all Members of Congress will join in proving that the honest sweat of American citizens smells far better than the censorship of this amendment."

Mr. President, this amendment ought to be turned down. We should not tolerate this sort of thing on the floor of the U.S. Senate or in our democratic institutions.

I ask unanimous consent that the Denver Post editiorial be printed in the RECORD and I yield the floor.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Oct. 23, 1991]

HELMS' NO-SWEAT CRUSADE

Jesse Helms, who is to high culture what Nero was to fire prevention, has now launched a new crusade to drive sweat out of American Life.

Seeking anew to gut the National Endowment for the Arts, the Tarheel Trogolodyte persuaded Congress to add language to the NEA appropriation that bans using money "to promote, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs."

Had Helms ever passed a basic biology course, he would have known that the skin is classified as an organ of the body—and that perspiration, is unquestionably an "excretion." And, of course, deodorant companies spend millions of dollars a year to convince consumers that sweat is "patently offensive."

Ergo, it is now against the law in Jesse Helms' America to take a picture of anyone sweating. Not to mention crying, bleeding, sneezing or (gasp) blowing his nose. By Helms' lights, even Norman Rockwell is a pornographer.

Incredibly, Colorado Sen. Hank Brown voted for this latest Helmsian stupidity, though Tim Wirth voted to defend the right to sweat. In the House, Reps. Pat Schroeder and David Skaggs voted against Helms, but those faithful Four Horsemen of the Right Guard—Campbell, Hefley, Schaefer and Allard—all backed the no-sweat amendment.

When this latest Helmsian idiocy comes back to the full House again, we hope all of Colorado's delegation will join in proving that the honest sweat of American citizens smells far better than the stinking censorship of Jesse Helms.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not know what amendment the Senator from Colorado is talking about. He certainly is not talking about mine. I am sorry he is offended by these works of art. I do not believe the Senator has even read the amendment.

Let me read the amendment for his edification: "Notwithstanding any other provision of law, none of the funds made available to the National Endowment for the Arts under this act may be used to promote, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs." If he thinks that is covered by this amendment, he better think again.

I yield to the Senator from Indiana such time as he may require.

Mr. COATS. Mr. President, I found the presentation of my colleague from Colorado somewhat—well, very disingenuous and somewhat amusing. The Denver Post obviously has not read the amendment of the Senator from North Carolina either, because to draw an equivalence between the works of art displayed by the Senator from Colorado, and what the Senator from North Carolina is attempting to restrict the use of taxpayers' dollars to fund, is laughable.

Anyone who takes 5 seconds to examine the types of so-called works of art that the NEA has funded with taxpayer dollars and compares them with what is being portrayed as objectionable here, and what the Senator is attempting to eliminate, which by the way, the Senate has done in an overwhelming vote this year, and the House has endorsed by a more than 2-to-1 vote in instructions to conferees on two separate occasions, to draw the equivalence between the recognized works of art that the Senator from Colorado displayed and what the Senate is attempting to restrict is almost beyond comprehension. I do not think it is a serious attempt to get at what I believe is a very serious question.

This debate really should not be necessary, Mr. President. The specific language of the amendment that we are debating and discussing here today was overwhelmingly passed by the Senate this year by a vote of 68 to 26. The House of Representatives, as I indicated, on two occasions, back to back, supported, by a more than 2-to-1 margin, the vote of the U.S. Senate.

It is incomprehensible to me, and I think to most Americans, how a small group of Senate leadership in a conference could reject not only the will of the Senate and the will of the House, but clearly the will of the people, as expressed by votes of their representatives in both the Senate and the House.

But we now find out, I guess, why that happened. A deal was made. As so often happens when this body or the House passes something that clearly expresses the will of the body and the will of the people, a small group of people meet in a secret room, not open to the public or press, and decide that their conclusions, their will, is more important than that expressed publicly by the elected representatives of the people.

So a deal was cut. A deal was cut that made the equivalence between——

Mr. REID. Will the Senator yield?

Mr. COATS. When I finish, I would be happy to.

Mr. BYRD. If the Senator will yield, the meeting was not in a closed room. It was open to the press. All of the formal meetings of the conference are open to the press.

Mr. COATS. I stand corrected. I thank the chairman for correcting me on that. I made the assumption that had it been open to the public, perhaps that agreement would not have been made. That was an incorrect assumption. I thank the chairman for bringing that to my attention.

The point I want to make is that I find it difficult to believe that there is an equivalence between something that this body and I think the American people in an overwhelming way have found very offensive and totally inappropriate use of their tax dollars, and a provision determining whether or not we would increase the amount of grazing fees paid to the Federal Government. But apparently that agreement was made, and I think that is very unfortunate.

I think Americans have lost their patience with the process by which we make these decisions, even when their mandate is clear. When relief appeared

to be in sight as to how we would deal with this question, it seems to me that politics got in the way, and now we are reduced to the alternative of explaining to the American people that, well, yes, we understand that you are frustrated with how your money is used to fund some of these projects and, yes, the Senate did express that frustration in a vote and, yes, the House did the same. But, you see, an arrangement had to be made in order to get the bill out of conference, and in order to protect the current level of grazing fees paid by some Western States to the Federal Government, we had to drop this provision.

The point here, Mr. President, as opposed to what the Senator from Colorado indicated, this is not a question of whether or not an artist has the right of expression under our first amendment to create any kind of junk that he wants. If he wants to create stuff that I would find offensive, and most Americans find offensive, then I suppose he, within certain very limited restrictions, has the right to do that. This is the question about whether the taxpayer should pay for it. If somebody wants to go in their garage and create a piece of junk, I suppose that is just fine, but I do not want to pay for it, and my constituents do not want to pay for it, and we should not ask them to pay for it.

What we are asking the NEA to police is this outrageous practice—however limited it is—of saying: We will take the taxpayers' money, and we cannot put any restrictions on what is done, or what it is used for; that to do so would somehow take away an artist's right of free expression. All we are saying is: Not with my money. All I am saying to my constituents is: not with your money. That is what they want me to say.

This question of saying: It is just a few places out of a big total—that is a disingenuous argument. That simply says that just because there are a few pieces of rotten stuff out here, we have no obligation to deal with it.

Most of you know what is pretty good. If a little bit of it is rotten, then by percentage we have not reached the threshold where we ought to do something about it. But I think what the American people are saying is that we do not want to pay for this kind of stuff, period. I do not care if you use one piece or a thousand pieces. When something is as morally and patently offensive as some of the material that has been approved by the National Endowment for the Arts, we do not think that is an appropriate use of taxpayers dollars. We have a higher priority use for that.

Mr. President, I think it is instructive to make sure we understand the distinction we are making here because the proponents or those that oppose this amendment are trying to couch this argument along the line of taking away someone's right of free expression. This Senate is not an art critic. It should not be an art critic. I do not want to put myself in a position of determining what is offensive and what is not offensive and what is art and what is not art.

All I know is I am a steward of the people's resources and they send me here to make judgments about the wise use of those resources. I could spend a lot of time on this floor illustrating how we have not wisely used those resources. But certainly we have the right to make a judgment to put minimal restrictions on an agency that is utilizing the taxpayers' funds. The key words here are "patently offensive."

The material that the Senator from Colorado—and I am sorry he is not on the floor here to engage me in a discussion and debate on this—but the material that the Senator from Colorado has displayed clearly is not patently offensive. It is a recognized work of art. Clearly, this amendment has nothing to do with sweat glands. Why the Denver Post chose to take this line of reasoning is beyond me.

But the word "patently" as defined by Webster is "obviously" or "clearly." And the word "offensive" means "obnoxious" or "disgusting"; "obviously disgusting", "clearly obnoxious", and I think when we ask the director and the board or whoever makes these decisions at the National Endowment for the Arts, when we ask them to apply this reasonable standard, surely that is a reasonable request made by this body.

Finally, let me just repeat again, Mr. President, we should not even be having this debate. We have had this debate. The Senate has heard both sides. They have voted by a more than 2-to-1 margin; 68 of our colleagues have said we agree with the amendment of the Senator from North Carolina. Our colleagues in the House, all 435 of them, by a more than 2-to-1 margin, not once but twice so they could make their point, instructed the conferees not to drop this language, and it was traded because in return a few cents increase in the grazing fee was dropped.

So to protect the grazing fees paid by westerners for their livestock, we have dropped a provision which, by any stretch of the imagination, is reasonable—restriction on the use of taxpayers' funds. I do not see the equivalence between the two of them at all.

I trust the Senate will abide by its earlier decision and not fall prey to a decision made by a few people in a tradeoff that I do not think I can explain or anyone else can explain to the American public.

I thank the Senator for yielding the time.

I yield the floor.

Mr. BYRD. Mr. President, I yield 2 minutes to the Senator from Rhode Island.

Mr. PELL. I thank the Senator from West Virginia.

Mr. President, it is scarcely a year since the Congress completed its reauthorization of the National Endowment for the Arts. It was the most thorough and thoughtful reauthorization that has occurred since we established the Arts Endowment in 1965.

Debates in Congress about the National Endowment for the Arts have now consumed enough of the time and energies of Members of Congress and their staffs to light the city of Washington for the next few years. Enough is enough.

The political nature of these debates has given me cause to think of my old friend and colleague Jack Javits. When he and I first proposed the idea for a Federal foundation for the arts more than a quarter century ago, we took great pains to create a process that would be free of politics. This meant that there would be no official Government-sanctioned art and no congressional restrictions on what artists could create. We succeeded in creating a system that has produced nothing short of a cultural renaissance in America. I continue to believe very strongly in what we accomplished.

Congress devoted its full attention last year to the charges that the NEA has violated the moral standards of America by the way it spends the taxpayer's money.

At the end of this exhaustive process we reached a hard-fought compromise which I believe was reasonable and fair. This accord dropped the Helms amendment that placed impractical and unworkable restrictions on Endowment grants and provided a working definition of "obscenity" as derived from the Supreme Court. It provided appropriate provisions for the courts to determine matters of obscenity using local community standards. It further established a mechanism for the Endowment to recover funds found to have been spent on the creation of obscene art. I remind my colleagues that the Senate endorsed these steps last year.

I very much regret that, after all we did, new efforts have been mounted to discredit and restrict the National Endowment for the Arts. I am relieved and pleased, however, that members of the conference committee did not bow to the pressures from the far right. Language proposed to restrict the Endowment's ability to support the arts was wisely rejected by the conferees. The spirit in which Jack Javits and I established the Endowment is still intact though the road has been bumpy of late and I fear that it may remain bumpy for a while.

It is therefore imperative that we support the agreement reached by the conferees and, in so doing, ratify the reforms that were so laboriously crafted last year.

I urge my colleagues to put this divisive and unwarranted debate behind us

by opposing the amendment offered by Senator HELMS.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I yield myself such time as I may require.

I knew and respected and admired Jack Javits who would not have countenanced this sort of thing. I think Jack Javits would be on this floor raising Cain right now if he were here.

Mr. President, I ask unanimous consent that the rollcall vote No. 197, which was the first vote on the pending amendment on September 19 of this year, be printed in the RECORD immediately prior to the upcoming vote on the pending amendment. I send it to the desk.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATE VOTE ON THE PENDING AMENDMENT, SEPTEMBER 19, 1991

YEAS—68

Baucus, Bentsen, Bingaman, Bond, Boren, Breaux, Brown, Bryan, Bumpers, Gorton, Graham, Gramm, Grassley, Hatch, Hatfield, Heflin, Helms, Hollings, Inouye, Johnston, Kasten, Kerrey, Kohl, Burdick, Burns, Byrd, Coats, Cochran, Cohen, Conrad, Craig, D'Amato, Lott, Lugar, Mack, McCain, McConnell, Mikulski, Murkowski, Nickles, Nunn, Pressler, Pryor, Reid, Robb, Roth, Daschle, Dixon, Dodd, Dole, Domenici, Exon, Ford, Fowler, Glenn, Rudman, Sanford, Sasser, Shelby, Simon, Simpson, Smith, Specter, Stevens, Symms, Thurmond, Wallop, Warner.

NAYS—28

Adams, Akaka, Biden, Bradley, Chafee, Cranston, Danforth, DeConcini, Durenberger, Gore, Jeffords, Kassebaum, Kennedy, Kerry, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mitchell, Moynihan, Pell, Riegle, Rockefeller, Sarbanes, Wellstone, Wirth, Wofford.

NOT VOTING—4

Garn, Harkin, Packwood, Seymour.

Mr. HELMS. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield 3 minutes to the Senator from Rhode Island [Mr. CHAFEE].

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 3 minutes.

Mr. CHAFEE. Mr. President, tonight is Halloween, and we are being spooked by the imaginary goblins, namely, the National Endowment for the Arts.

I think this body ought to be tired of debating this issue. By my count we had at least seven votes on the subject of the National Endowment for the Arts in the past 2 years. And there was one more, if you count the original amendment voice-voted by the Senate (over my objections) in July of 1989. Yet here we have another one.

You might think that we have an agency run amok here, wildly throwing money at every smut project in town. What agency is that? It is not the NEA. The National Endowment is a worthwhile, valuable asset to American arts and culture, and thus to our whole society. It has funded some controversial projects. Yet out of the nearly 90,000 or so grants awarded since their origination, the controversial projects number maybe 3 dozen, a tiny fraction. I suspect there aren't many agencies with that kind of track record.

We have heard a lot about Annie Sprinkle and other artists whose names are bandied about here today and previously. Let us mention some other names that the National Endowment for the Arts has funded: The Dance Theatre of Harlem, the Renoir Exhibit at the Boston Museum of Fine Arts, the Vietnam War Memorial, children's public television programs, such as Wonderworks.

In my own State they have helped fund the very popular Providence First Night Celebration. We have had student arts and theaters programs and we have programs for the elderly funded with the help of the NEA.

Last year, to address concerns about obscenity, we approved by a 73-to-24 vote a reauthorization bill carefully drafted to address such problems. As enacted, the bill established a decency standard as part of the criteria used by the NEA in judging whether to fund a project. It also required that any artist whose NEA-funded project was determined to be obscene by the courts to return the funding. This put the debate on obscenity back where it should be—in the courts.

That is where it belongs, and let us leave it there, Mr. President. The NEA is making a good-faith effort to implement its new guidelines—why not give the agency a chance before we start changing things again? They are trying to do a difficult job. In fact, the ultimate irony of the situation is that the NEA now is being challenged in court under the first amendment because of that decency standard. They are being besieged—from both sides.

The NEA has a challenging task to accomplish. Let us not make it any tougher. Let us give the agency a chance by leaving it alone.

I thank the distinguished manager.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield myself such time as I may consume.

Mr. President, the conference report contains compromise language regarding the National Endowment for the Arts. Rather than adding new language establishing yet another standard by which the NEA must evaluate its grant applications, the conferees of the House and Senate reinforced the directions provided under the authorizing statute for NEA.

The underlying statute explicitly states that obscenity "* * * is without artistic merit, is not protected speech, and shall not be funded."

This compromise language will not be acceptable to every Member. It is not the language I would have preferred. But a conference is a series of compromises, wherein each participant must give a little in order to get a little. Such is true in the case of the NEA.

My distinguished colleague, the ranking manager of the Interior appropriations bill, Mr. NICKLES, made extended arguments in support of the language which had been adopted by the Senate weeks ago by a vote of 68 to 28, and I was one among those 68 because I support, in concept, the idea that the distinguished Senator from North Carolina is seeking to establish.

The bottom line of any and all efforts to prevent some of these very offensive, disgusting, so-called works of art from receiving funding is that the NEA must exercise its judgment in reaching its grant award decisions or the Congress should cut the funds or eliminate the funds. We tried to reduce the funds earlier this year. Senator KASSEBAUM offered an amendment to reduce the funds. I voted for that amendment to reduce the funds for the NEA. But the amendment was rejected overwhelmingly.

Responsibility lies ultimately with the Chairman of NEA, but greater responsibility must also be exercised by the panelists and the artists. This responsibility cannot be easily legislated. Failure to exercise such responsibility, however, will lead to continued challenges to the NEA, and possibly, a significant reduction in funding for NEA. I, for one, have said that I might support that approach in the future.

The answer to issues such as those raised by the Senator from North Carolina is reform in the panel process and greater responsibility for the decisions made by the NEA. Last year, the reauthorization for the NEA directed a significant number of changes to the panel review process by which NEA reaches its grant recommendations and decisions. The geographic representation on panels is to be broader, and stricter conflict of interest requirements were imposed.

The NEA must reject grant applications it considers to be questionable. Artists must recognize that an NEA grant is not a right, but is a privilege. The extremes on both sides of this issue detract from the benefits the arts bring to many in our society. The taxpayer must not be asked to continue to fund these objectionable works forever.

Mr. President, I ask unanimous consent that a letter addressed to me by Mr. Frohnmayer dated September 10 of this year be printed in the RECORD, together with my response to Mr. Frohnmayer by letter dated September 23.

NATIONAL ENDOWMENT FOR THE ARTS,
Washington, DC, September 10, 1991.

Hon. ROBERT C. BYRD,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BYRD: I am enclosing background information on action that the Endowment recently took involving an Arts Endowment Dance Program grantee, Movement Research Inc.

The Endowment found that a publication partially funded by a Fiscal Year 1991 grant, Movement Research Performance Journal #3, viewed in its entirety, does not comply with the purposes for which the grant was given as specified in the category guidelines and the grant application statement. The agency additionally found that the journal violated the terms and conditions of the grant by printing material intended to influence members of Congress about pending legislation. Accordingly, the Endowment requested the return of NEA funds that were used in support of the journal.

I am available at any time to discuss this issue further with you.

Sincerely,

JOHN E. FROHNMAYER,
Chairman.

SEPTEMBER 23, 1991.

Mr. JOHN E. FROHNMAYER,
Chairman, National Endowment for the Arts, Washington, DC.

DEAR JOHN: Thank you for your letter of September 10, 1991, regarding actions taken recently by the National Endowment for the Arts regarding Federal Funds granted under the auspices of the NEA Dance Program to Movement Research, Inc.

Based on the information provided in your letter, I understand that NEA has determined that some of the funds provided were used for purposes which, in your judgment, reflect inconsistencies with the terms of the grant award. I wish to commend you and the Endowment for your prompt actions to recoup the Federal funds associated with the Movement Research "Performance Journal #3." Such materials do not even merit association with the word "art", and certainly should not be associated with the term "excellence."

In reauthorizing the National Endowment for the Arts last year, Congress made clear that ultimate responsibility for the decision-making at NEA lies with the Chairman. If the NEA is unwilling or unable to justify fully its decisions to the taxpaying public, continued debate over the proper role of the Federal government in funding for the arts is inevitable.

With warm regards, I am

Sincerely yours,

ROBERT C. BYRD.

Mr. BYRD. Mr. President, in my response, I said in part:

In reauthorizing the National Endowment for the Arts last year, Congress made clear that ultimate responsibility for the decision-making at NEA lies with the chairman. If the NEA is unwilling or unable to justify fully its decisions to the taxpaying public, continued debate over the proper role of the Federal Government in funding for the arts is inevitable.

Mr. President, nobody, even the Senator from North Carolina, objects to this misuse of the taxpayers' money with greater indignation than does this Senator from West Virginia. But saying that, does not remove the problem.

It is very difficult, if not impossible—we have found it impossible thus far—to construct language that will eliminate this kind of funding for these kinds of so-called art pieces. We have found it difficult to find the kind of language that does not run afoul of the Constitution. There is where the problem comes in. And so we have done the best we could.

We went to the conference. We were 4 days in formal conference, 21 days in preconference meetings. This item was decided in a formal conference close to the end of the conferences. It resulted in a compromise between the two bodies, in which compromise the House yielded to the Senate on the matter of grazing fees and the Senate yielded to the House on the matter of the NEA. So that was an agreement. We reject yours, you reject ours. That is it. And those two items had remained almost to the end of the conference.

So we have an agreement that we entered into with the House. I would not want to see that agreement broken. If breaking the agreement would resolve this problem for all time, then I would see fit to break the agreement. But this is a problem that has always existed. That is not to say we should not try to do something about it. But it has always existed.

If we read Milton's "Paradise Lost" we will find that when Adam and Eve were driven from the garden, Adam was told that he would bruise the head of the serpent and the serpent would bruise the heel of man.

Procopius was a Byzantine historian in the sixth century, A.D.

He wrote *The Histories;* the *Buildings*, and he wrote *The Secret History*. *The Secret History* concerned Theodora, the wife of Justinian. It also concerned the story of Belisarius, the great Roman general who served under Justinian, and the wife of Belisarius, Antonina. In this work, Procopius wrote about Theodora, how Theodora led a life of harlotry before she married Justinian. He described how she would appear in the circuses, in the shows, in the theater. She would perform her nude acts and, in one performance, she would lie down on the stage and spread herself out and lie face upwards on the floor.

Servants would sprinkle barley grains over her private parts, and geese, trained for the purpose, would pick them off one by one with their bills and swallow them. Without blushing, Theodora, when she stood up again, appeared to be proud of this act.

That was offensive to Procopius' tastes. That was close to 1,500 years ago. Justinian died in the year 565. So did Belisarius and so, incidentally, did Procopius. They all died apparently in the same year. But Procopius' *Secret History* did not appear until the 1600's, I believe about 1,000 years following his death. So it was secret. It was not published until about 1,000 years later.

I say this to say that the world has always been subjected to such offensive acts. We have always had people who were willing to sell their bodies in commerce. And there have been laws passed time and time again through the centuries to deal with such filth. We have passed laws and we should not desist from trying to do what we can to outlaw such obscenities. I am simply saying that we have had such troubles for thousands of years.

We still have the problem, because the serpent is still abroad in the land. And it always will be so.

Now, Mr. President, let me take just 2 minutes to comment on the parliamentary situation. Mr. President, do not let it be said that the House cannot take action to put the grazing fee back on this vehicle and send it back to the Senate. It can be done.

We say in the Senate, anything can be done by unanimous consent. But not everything, under the rules, can be done by unanimous consent in the Senate. For example, I cannot call attention to certain people in the gallery by unanimous consent. The Chair should not even put my request.

I cannot come in after the Chair has announced the results of a rollcall vote, and get unanimous consent to be allowed to vote. The Chair cannot even entertain such a request.

But one can almost do anything in the House with their rules. They can bring out a rule. They can certainly get the grazing fee back on. If it is the will of the House that they want to put the grazing fee back on this and send it back to the Senate, they can do it. Do not ever let anyone tell you that that cannot be done.

Of course, the fastest way to get this measure to the President is for the Senate not to add any amendment to the measure at this time. But the Senator has a right to offer his motion and the Senate has a right to send it back to the House.

But the House also can get a rule waiving points of order. And if the House wants to add a third-degree amendment to this amendment when it gets over to the House, the House can do that if it gets a rule waiving points of order. And if the House were to do that, and it came back here with a third-degree amendment, the Senate can add a fourth-degree amendment, because the Senate must not allow itself to remain defenseless in the face of actions by the House of Representatives.

If the Senate amends the amendment in disagreement, the House could concur therein, as the distinguished Senator from North Carolina has said, or by special rule could concur therein with a further amendment. This rule could assign the highest privilege to this motion to concur with an amendment.

It is also possible, by special rule for the House to concur therein with fur-

ther amendment in the third degree, waiving points of order. Such special rule could assign the highest privilege to the motion to concur with an amendment. This could be accomplished by adoption of a special rule which the House could proceed to do by a majority vote any time beginning tomorrow.

If it were today, it would require a two-thirds vote, as the distinguished Senator from North Carolina has so accurately stated. But it does not have to be done today. If the House should wait until tomorrow, then a majority vote would accomplish what it would require a two-thirds vote to do today.

Such special rule would require only a majority vote for its adoption, and the motion to concur with any amendment would only require a majority vote.

Although it is assumed that the House will take up this measure today, it is entirely possible that the Senate message on this bill would not be considered in the House until tomorrow, at which time the House, by a majority vote, not a two-thirds vote, could adopt a special rule authorizing virtually any amendment on any subject.

So I would rather not take the chance on having a grazing amendment attached to this amendment. I think we would run the extreme danger of that because, as I say, there was an agreement that if the Senate would yield on the NEA, the House would yield on the grazing fee.

If we break the agreement, do not think that we definitely shall get by with doing it unilaterally. Because when we send it back over there, the House may say: "Well, the Senate has broken its half of the agreement. Let us proceed to break our half. And we might then get the grazing fee right back here in the Senate.

There is nobody in here who can say authoritatively that that cannot happen. And nobody can say that it will not happen.

I yield to the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, is it not also true that the Rules Committee is the one committee where the appointments are made exclusively by the Speaker of the House, which is controlled by the majority party?

Mr. BYRD. That is my understanding.

Mr. REID. So that would mean the Rules Committee has a great deal of leeway; is that not true?

Mr. BYRD. Absolutely. It really does.

The PRESIDING OFFICER. The time for the Senator from West Virginia has expired.

Mr. BYRD. Has it all expired?

The PRESIDING OFFICER. It has expired.

Mr. BYRD. Mr. President, I promised two Senators they would have some time. I wonder if we could——

Mr. NICKLES. Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. Twenty-two minutes, 50 seconds.

Mr. BYRD. Would the Senator from North Carolina be in a position to yield me some of his time?

Mr. HELMS. Let me yield to the Senator from Oklahoma, and we will discuss how much. Of course I will yield that. Our relationship is such we will not have any problem.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina controls 22 minutes 28 seconds.

Mr. HELMS. Twenty-two, 28? I yield such time as the Senator from Oklahoma may desire.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I thank the Senator from North Carolina, and I also wish to compliment Senator BYRD because, as he mentioned, during this conference—we had a long conference, the longest conference I have been involved in. I asked Senator BYRD, who has been here about three times as long—I have been up here, this is my 11th year; the Senator from West Virginia has almost, if not more tenure in the Senate than anyone else—if it was not his longest conference. I think he said it might have been.

We met for days, and we discussed this amendment for hours over several days. It was not a mild discussion. We went over this amendment at length various times. I will tell you, the Congressman from Illinois, Congressman YATES, is very steadfast in his position. I compliment him for it. Just as the Senator from North Carolina is very steadfast in his position. I do not know how this is going to be resolved.

The Senator from North Carolina won a vote, a big vote, a very strong vote in the Senate originally, and actually we have had good votes in favor of his position in the House. But they did not control the conference. And my colleague, the chairman of the Appropriations Committee, mentioned, well, a deal was struck in the conference. I was not part of that deal. I did not agree with that deal.

I do not like the idea of saying, well, we will give on something like grazing fees—this is the House's position—if you will give on NEA. I object to that. But I did not win. I tried. I tried my very best to defend the Senate position. I happen to think it is right. Because if we do not have the Senate position, we go to the language which is now in the bill. We go back to what I call the Yates language, and I find that quite inadequate.

I will tell you, the net result is, if we continue with this language—and a lot of it is the same language that is under the authorization bill that passed a year ago—you do not really clean up a lot of the very offensive type of grants that are being abused by a few people.

I agree with several of my colleagues. Most of the grants that are made by NEA are not offensive. Most are doing a good job throughout the country. But some are quite offensive, and some of the so-called artists—and I would put that term in quotes—really abuse the system. They found out how to get the grants. Maybe they have friends on the reviewing committees that continue to have their names pop up as recipients. They do very offensive things, very offensive things, things we cannot show on the floor of the Senate, one of which is in this packet, if Senators wish to see it. This is a group called Movement Research, that has some of the filthiest, most sacrilegious things I have every seen. Yet, they receive a grant.

I will compliment NEA. They said, "Hey, this is offensive. Not only that, but you lobbied in the most offensive way I have ever seen any lobbying ever done." And so NEA says: "We want our money back."

This group says, "Heck no. We are not going to give your money back. Take us to court." The money we are talking about is $1,400—$1,400. It appalls me to think that our dollars, tax dollars, would be used to fund any type of group like this, a radical—well, it is not art. It is offensive. It is offensive. If you took that out to the American people, 99.9 percent plus would be very offended, if not outraged.

I am going to tell my colleagues something. NEA is probably not going to get their money back. It is interesting to note, NEA, in my opinion, has not done a very good job at stemming the tide from not funding some of these very offensive groups. There are a few groups they decided not to fund because they have been very offensive. They have done things like urinate on the stage or they have done things like parading in the nude and covering themselves with chocolate and a lot of different things, and NEA said, "We will deny you a grant." They are suing NEA. And then NEA shows a lack of courage. Instead of standing up to their suit or something, they turn around and give them more grants. That probably has offended me more than anything, to think that NEA would succumb to that type of pressure: "Oh, they are going to sue us," and then turn around, the very parties suing them because they denied them a grant, they are turning around and giving them more money. I am critical of the director and critical of the screening committees who made that recommendation. I find that offensive, so I want to stop it.

I heard everybody say, "We do not support that kind of art." But the language that is in the appropriations bill before us does not stop it. You have to be convicted of a criminal offense of obscenity before funds will be denied.

There is a court case on Mapple-thorpe. You might remember that. We had some very graphic pictures of that a year ago, including another person urinating in another person's mouth and even more offensive pictures than that. A district court found that was not offensive, that did not classify as obscenity under the language that we are looking at. So this language does not really do anything to clean up some of the really outrageous things that a few people do—not many—but a few people who have just found out how to abuse this system. You have to be convicted of obscenity and use all your recourses through every appellate level before you will be denied any assistance. I think that is too far. I do not think this language does enough. It will not do anything, frankly, to curb the abuses that we have on our desk today or the abuses of the past like Mapplethorpe and others.

That is why I support the amendment of the Senator from North Carolina and the reason why I would like to correct my friend from Ohio, Senator METZENBAUM, who is not on the floor, or Senator WIRTH, from Colorado, who said we already did it, we did it in the authorizing language. The authorizing language is this language, and it will not work. It flat will not work. It will not curtail this type of abuse by a few people. Therefore, I support the Helms amendment.

As far as the procedure is concerned, again, I have the greatest respect for Senator BYRD, but I do not think we can determine what is going to happen in the House if the Helms amendment is adopted. I know there are all kinds of threats: We are going to put on the Sinar amendment, do something else on grazing. Certainly they are going to be vindictive. I do not know. I happen to really believe in the Helms language. I think it is a significant improvement over the language in the bill, which is nothing but a fig leaf. It does nothing to cure the real problems we have had in funding NEA and, therefore, I support the Helms language.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

Mr. BYRD. Mr. President, I promised Mr. CRAIG 4 minutes, and I promised Mr. KENNEDY 3 minutes. I wonder if Senator HELMS would help me a little.

Mr. BUMPERS. Mr. President, if the distinguished chairman of the committee will yield.

The PRESIDING OFFICER. The Senator from North Carolina is controlling 14 minutes, 47 seconds.

Mr. HELMS. Does the Senator desire 4 minutes for one Senator and 3 minutes for another?

Mr. BYRD. I asked 4 for Mr. CRAIG, 3 for Mr. KENNEDY, and Mr. BUMPERS wants 3 minutes. That is 10 minutes.

Mr. HELMS. Fine. That is fine. And if you have further problems, we can work on that, too.

Mr. BYRD. May we count it against the Senator's time?

Mr. HELMS. I would rather not. At the appropriate time I may yield back the remainder of my time.

Mr. BYRD. I ask unanimous consent then, with the approval of Mr. HELMS, that Mr. CRAIG have 4 minutes, Mr. KENNEDY have 3 minutes, and Mr. BUMPERS have 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague from North Carolina for his cooperation. It is, in fact his generosity which puts me in an almost embarrassing situation because I am standing this afternoon to do something that I thought about for some time before I came to the floor, and that was to vote for a motion to table the amendment of my colleague from North Carolina.

Mr. President, I am doing that out of some very real frustration, not over my colleague or his amendment, but over the process that has found us in this situation, which I dislike very much. When I watched the leveraging process that went on by the chairman of the Appropriations Subcommittee from the House denying the will of the Senate spoken as loudly and clearly as this body did but a few weeks before the conference on this particular amendment—and I am speaking of the amendment—and I am speaking of the amendment to the National Endowment for the Arts—to express the will, what I believe to be the will, of the American people as to not funding what is very clearly and without question pornography. That is one side of the issue, Mr. President.

The other side of the issue is the will and the effort on the part of the chairman of the Interior Appropriations Subcommittee to respond to the concern of Western grazing interests to be treated fairly on their ability to graze livestock on public lands, an issue that is very important to me and other Western Senators, as important as the issue of the NEA.

So you see, today I would like to have it both ways, but I cannot, and a good many of us cannot, and that disturbs me a great deal because I think both supporting the appropriate process in determining what is a reasonable fee to charge Western grazing interests for public grassland in this country—and it will be addressed in the authorizing committee in the coming year—and to express the will of the American people as to the mishandling of their tax dollars as they are being allocated for pornographic art is what this body ought to be doing, but we are denied that today.

I am looking for an opportunity to stand once again with my colleague from North Carolina to address the will of the American people to appropriately direct the responsible authorities of the National Endowment for the Arts to do what I think our citizens want. And, at the same time, I will support a motion to table today because it is just so fundamentally important that I do not see hundreds of my ranching families in Idaho bankrupt because certain interests would wish to charge an inappropriate, if not deleterious, fee for Western grazing on public lands.

Those are the issues today. I prefer not to be on this floor speaking, but it is important that I speak up because both issues are important. It is not only important for Idahoans to understand where I stand on this issue, but I think it is important for my colleague from North Carolina to understand why I speak with such passion on both issues. They are important. And the Appropriations Committee and the subcommittee, chaired by my colleague from West Virginia, did all they could do and did it well, and I respect them for their effort. My colleague from Oklahoma was forthright in his desire to serve the will of the Senate on both issues, and he is right. He negotiated for hours to try to resolve this. We arrived at an impasse, and the impasse was resolved by what we now have before us, and I hope we can move this process in a timely fashion. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, first of all, I want to join those in commending the Senator from West Virginia, the chairman of the Appropriations Committee, for his willingness to take on this particular issue, which is basically the issue of censorship, that we are faced with this afternoon. No one is interested in seeing the funding or the advancement of obscene art, but what was actually created last year as a remedy must be supported and should be supported.

Mr. President, for 25 years, the National Endowment for the Arts has passed out some 90,000 grants to communities, small towns, museums, galleries all over this country, and there are 25 controversial items.

The real question that we are deciding now is whether we are going to follow what has been established in the Supreme Court under the Miller decision and follow the guidelines which have been established for the support for those particular items under the Miller decision or whether we are going to set in motion censorship in the U.S. Senate.

I think the Appropriations Committee has wisely recommended a course of action. I think it is consistent with the objective of all of us in terms of the support for the arts. I think we have to recognize that in the continuation of supporting arts in the future, there are

going to be other mistakes that may be made. We have to recognize that. We have established a procedure. We should follow that procedure and reject the Halloween trick of the Senator from North Carolina.

Mr. President, I support the work of the Senate and House conferees on the Interior appropriations bill, and I urge the Senate to reject this excessive parliamentary maneuver to create an amendment in disagreement where there was none before.

I particularly commend the conferees for adopting a reasonable and responsible approach to the funding of the National Endowment for the Arts.

For many months, the NEA has been subjected to a long line of unreasonable and unfair attacks that amount to blatant Federal censorship of the arts and a serious threat to artistic freedom. This worthwhile agency has come under continuing intensive scrutiny that is clearly designed to intimidate its officers. Its work has been disparaged and denounced, all because of some 20 grants out of over 90,000 awarded in the past 25 years.

It has become politically expedient to attack the agency, just as it has become convenient to distort its grantmaking history and ignore the valuable support by the Endowment for museums, symphonies, opera companies, and dance companies across America.

Instead of the gauntlet of blame and harassment it has been forced to run, the Endowment should be receiving well-deserved credit for the outstanding job it has done in providing support for these institutions and promoting broad new access to the arts for large numbers of our citizens.

Congress dealt last year with the problems raised by the agency's handful of controversial grants. We dealt with them effectively, and the conferees were right to reaffirm the accord we reached.

In response to legitimate concerns about these few controversial grants, Congress made clear that Federal dollars should not be spent on any project that is obscene. The law we enacted last year explicitly prohibits funds for such projects. If any funds are awarded for such purposes, they must be refunded to the Government. The proper way to determine obscenity is through the determination of the courts, as the law provides, and not by installing the Senator from North Carolina, or any other Members of Congress, as a board of censors for the arts.

I continue to believe that the solution last year, which was agreed to by the Senate, is the most reasonable way to deal with the issue of controversial grants. It guarantees that work which is obscene will not be funded.

Indeed, it is my understanding that with respect to the item in the brown envelope of the Senator from North Carolina, the Endowment is taking appropriate steps to recover the Federal funds.

In addition, in the final package adopted last year by Congress, we took further steps to enhance State participation in the allocation of Federal funds. A provision increasing the passthrough to the States from 20 percent to 30 percent for 1991 and 1992, and to 35 percent for 1993 was approved.

This reform was intended to bring the decisionmaking on grants closer to the people. In practice, however, the Endowment now has less control over who gets grants, even though the agency still retains overall accountability for whatever grants are made. In fact, many of the grants that have been found to be the most controversial by the Senator from North Carolina have been subgrants awarded by State or other subgrantors.

Unfortunately, much of the information from the field indicates that States are allocating—for the first time in recent history—less, not more, money for the arts. The difficult budgetary situation confronting many States is forcing them to cut back on spending, and often it is support for the arts that is being sacrificed.

As a result, the increased Federal passthrough is being used to replace, not supplement, existing resources in the States. This is not what Congress intended. It is not the best use of the small Federal appropriation that we make for the arts in America, and I hope that we will address this problem as soon as possible in future legislation.

As a practical matter, many of the States themselves do not feel they can responsibly adjudicate the extra funds. The National Association of State Arts Agencies and the National Assembly of Local Arts Agencies officially oppose any additional increase in funds to the States.

In sum, the Arts Endowment cannot walk away from art that is progressive or challenging, and few of us in the Senate or the Nation think it should. The compromise adopted last year, which is repeated in the conference report, is a sound basis to separate the meritorious from the unacceptable.

Opinion polls demonstrate again and again that Americans respect the arts and want them to be a larger presence in their lives. A primary goal of the Endowment is to carry out this mission, so that the arts become more broadly available throughout the Nation, not just for elite or urban audiences, but in all neighborhoods and communities across the country.

The agency has made mistakes, and it will continue to make them. But in any realistic perspective, its achievements far exceed its failures. The corrective action we took last year is the right response, and the Senate should give it time to work. There is no justification, none whatever, for the artistic harassment the Senator from North Carolina continues to inflict upon this decent and successful agency. I urge my colleagues to table the Helms amendment and protect the Endowment from this irresponsible Halloween attack.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. BUMPERS. Mr. President, I have never before spoken on this subject in the Senate, and do so with some reluctance today. First of all, I would like to believe that the goals of the Senator from North Carolina are the same as mine. I do not believe he was any more offended by the Mapplethorps exhibit than I was. I even voted with him on his amendment to the Interior bill to dramatize my concern.

Now, what we are really debating here, ultimately, in my opinion, is whether or not some exhibit, or expenditure of taxpayers' money for patently offensive art should result in eliminating all funds for the National Endowment for the Arts.

I must say, Mr. President, that in my State these funds are used to fund the Arkansas Symphony, a very fine organization; we fund drama; we fund writers. We are proud of all the results of these grants.

The reason I am going to vote to table the Helms amendment is because I do not believe his language does any more to accomplish what he wants than the House language does. As a matter of fact, I believe the House language is probably better. The Helms language is more explicit, certainly, but in the long run I am not sure that it accomplishes even his own goals very well.

Finally, Mr. President, let me say that I worry about the thrust of the Helms language. I believe strongly in musical and dramatic and literary freedom, artistic freedom. I do not believe, and the Senator from North Carolina does not believe, that the American taxpayers ought to subsidize something that is obviously offensive to virtually everybody. There are some who never find anything offensive, I guess. But I share the Senator's concern about tax money being used for what is obviously obscene.

But if the Helms language had been on the books for the last 500 years in the whole world, all of the great art museums in the world would probably not have more than half to two-thirds as much art as they have hanging on the walls, and many great revered religious paintings would never have been done. And so, Mr. President, I worry about where we might be headed with this.

When I think of Russia, I think of the great writers, the great musicians, the great artists that were produced in Russia in 1,000 years of her history

until 1917, when all of a sudden everything had to pass some kind of Communist political test. So creative talent was effectively thwarted.

Mr. President, I just want to say that while I believe the aim of the Senator from North Carolina is laudable, I do not believe it does anything more than the House language does. I am not involved in the grazing fee issue. I do not know what happened on that.

Finally, Mr. President, I want everybody to bear in mind that the first thing Hitler did was to get control of the courts, literature, art, and music. And I do not want that to ever happen in this country.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to proceed for 30 seconds.

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

Mr. JOHNSTON. Mr. President, I supported the Helms amendment when it first came up, and I am going to vote with my chairman, Senator BYRD. Anybody who was in that conference, as I was, knows he did everything he could to uphold the Senate's view that this is a good bill; that we put the bill in jeopardy if we do not support him. I hope other Senators will support Senator BYRD.

The PRESIDING OFFICER. The Senator from North Carolina controls 14 minutes 17 seconds.

Mr. HELMS. Mr. President, I yield to the distinguished Senator from Wyoming such time as he may require.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, first I want to thank both Senator BYRD and Senator HELMS for their courtesies, along with the manager, Senator NICKLES. I had an obligation which took me out of the city for a few hours and they were helpful in enabling me to speak, and I appreciate that. I would not have asked for that, and they were ready to grant it. I appreciate it, and we will go forward.

Mr. President, I concur with what my friend from Idaho has said. You can imagine the conflict of those of us from the West, from the public land States in dealing with this issue, because I can assure you this is not about rich ranchers when you get to grazing fees, and that is what this is all about. Because we have it on good recommendation, or at least knowledge, that if this were to go back with this proposal, indeed the grazing fee issue would rise again. That is a quadrupling of the fees on the Western lands. We could not chamber that. It is not something against the rich. It really is hundreds of people who are hard-scrabble people. When we think of the agricultural support systems in the United States, this is a very minimum one.

So it is a real conflict, because I, along with 67 others, supported Senator HELMS. He took the issue further than the Supreme Court decision on obscenity. But I think in a way that the courts could well weigh it and see what they might do with it.

But I pay tribute to Senator HELMS. He works doggedly on the issues in which he believes. He has always assisted the West. He has helped us in many ways. He is not a regional person or provincial person. He understands our problems. We try to understand his.

So this issue is undergirded in a way where I feel badly that we had to come at a measure about which he feels so strongly. And yet when you weigh it, it would be as deep an issue for the Senator from North Carolina, such as tobacco, or something that would be close to the bone and the heart like that. And we get into those, we get caught in those.

So I thank Senator HELMS for his continued assistance to us, and I certainly regret that it came to this peculiarity of legislative reality where sometimes they wire the package together so it is sure to blow up and at least detonate someone, and that is what we have today. I commend the Senator for his strength of feeling.

There are many things in these materials that are being presented to us which are truly repugnant. I know a lot about art. I love art. I have been to some of the great capitals of the world. I am very fortunate to have been involved in art galleries. But there are some things that are not art and they are obscene under anyone's interpretation, whether it is community standards or whatever. Certainly some of the things I have seen in the cloakroom today have escaped my attention as being listed in that category.

So I thank the Senator from North Carolina for his courtesies, I thank the Senator from West Virginia for his forbearance, and the Senator from Oklahoma.

GRAZING FEES

Mr. DOMENICI. Mr. President, I want to thank the distinguished chairman of the Senate Appropriations Committee and the distinguished ranking member of the Interior Appropriations Subcommittee for their support of the Senate position on grazing fees in the recently concluded conference on the Interior appropriations bill for fiscal year 1992.

I am pleased to say that the Senate conferees adhered to the Senate position on several issues of serious consequence to the Western States. One of these issues was the Senate's deletion of the House provision to significantly increase grazing fees charged on public lands.

The conferees did include language in the conference report requiring the Departments of Agriculture and the Interior to contract for a study to update and review the information in their 1986 joint report to the Congress entitled "Grazing Fee Review and Evaluation."

I believe such an evaluation will be valuable to the authorizing committee as it begins to review Federal policy relating to the use of public lands and grazing fees.

Mr. President, the livestock industry plays a vital role today, as it always has, in the economy of the West. Many of the communities that exist today grew into being as a result of livestock production, and this industry still provides that major economic base for many of the Western States. Besides providing a tax base for State and local governments, more than 20 percent of all personal income in Western States is a result of livestock production.

The Federal Government is the largest landowner in the West, and both the Government and the private landowners of the West have benefited from a "partnering up" that has provided for the utilization of the Western rangelands for the raising of livestock.

Some have said that Western livestock production is such an insignificant part of the national production that its demise would hardly be missed. Yet, 40 percent of all cow-calf producers with herds of 100 head or greater use Federal lands, in conjunction with their own, to create viable ranching operations.

The question of how much the forage that grows on the Federal lands is worth has been debated for nearly a century. It is difficult to calculate the value of Federal land and forage, because the quality of the forage, the accessibility of the lands, the lack of water, and range improvements that make the land productive are all very different from private pasture lands. It is now time to settle the issue and to close this debate on the value of Federal forage, which has gone on too long.

It has been 13 years since the passage of the Public Rangelands Improvement Act [PRIA], and it is time to update the information used then on range conditions, big game populations and other factors that have been part of this debate. It is time to determine if the funding for the range management program that PRIA provided has contributed to better range conditions.

The 1986 grazing fee review and evaluation, which the conferees direct to be updated and reviewed, is at the center of this controversy. It is my hope that under this congressional directive the land management agencies will take this opportunity to fully and fairly evaluate the criticisms directed to the study design, the data collection methods, and the analysis and conclusions reached in that study.

The major fee studies conducted in 1966, and again in 1977, rejected the use of private lease rates as a basis of comparison to establish Federal forage values. The 1982 study that provided the

information for the 1986 evaluation was the first time private lease rates were used for comparison. This is a major point of controversy, which must be dealt with as we prepare to address the grazing fee issue in the authorizing committee next year.

I know we would all like to see the issue of Federal grazing fees settled in a manner that is fair to everyone—fair to the people of the West who must partner with the Federal landlord, and fair to the Government that represents all the people of this Nation.

We can only make sound decisions in such matters if we have sound information upon which to base them. I hope that the review mandated in this conference report will provide that sound information.

The PRESIDING OFFICER. The Senator from North Carolina controls 10 minutes 29 seconds.

Mr. HELMS. I thank the Chair.

Mr. President, I am going to yield back in just a moment the remainder of my time. Of course I thank my friends, AL SIMPSON and DON NICKLES and others, for their support. I understand the situation.

I had at least a dozen Senators come to me who said, "Look, JESSE, I want to support you, but we have to get this grazing fee under control." So I bear them no animus whatsoever.

I do not like the process in the House of Representatives, particularly by one man, who said publicly that he did not care how the House voted with respect to this; he was not going to yield the will of the body.

I will make a few comments. I always am fascinated by the wealth of knowledge of my friend from West Virginia, the distinguished President pro tempore and chairman of the Senate Appropriations Committee. He talked about Empress Theodora and her act on the stage, which is somewhat similar to some of the rottenness funded by the NEA. I want to simply point out to that to my knowledge Theodora did not get an NEA grant.

Senator KENNEDY, as is customary, raised his voice and talked about censorship. Nothing was ever suggested by this Senator, or anybody else insofar as I know, related to censorship. I say again that what we are talking about is not censorship. It is sponsorship.

I do not want to say very much about the analogy that I used earlier today. If a guy wants to go into a men's restroom and scrawl dirty words on a wall, that is fine—just so long as he furnishes his own crayons and his own wall.

What we are talking about is taking money from the American taxpayers, and giving grants to smut peddlers. It is as simple as that.

We are not talking about censorship. We are not talking about taking away anybody's rights. This guy who took the picture that I held up two or three times, he has a right to do that. I think he is a reprobate for doing it. But if he did it with his own money, and on his own time, that would be one thing. But he used taxpayers' money. The people who published this newspaper, received NEA funds.

I am sick and tired of this business of using the taxpayers' money to promote, encourage, and subsidize filth. That is the issue; nothing remotely involving censorship is in it. It is plain and simple sponsorship that the NEA is doing.

With that, Mr. President, I know I am going to be defeated.

There is going to be in the CONGRESSIONAL RECORD how each Senator voted the last time this matter came up in the Senate when by a margin of better than 2 to 1 the Senate approved this very amendment. Senators will explain their votes.

I will help the Western Senators who are caught in a vise on this issue. I will write to their constituents who are offended by the switching of the votes, because they had a reason satisfactory to themselves to change their vote. I bear them no animus. They are my friends now, they have been my friends, and they will be my friends.

But this business of the NEA putting the Government in the pornography trade, has to stop.

If I could borrow an expression from a pretty great general whom I admired very much, I say to you, Mr. President, on this issue, "I shall return."

I yield the floor. I yield the remainder of my time.

Mr. SANFORD. Mr. President, I rise today to express my support for the Department of Interior appropriations bill. I will be voting against the amendment that has been offered by the senior Senator from North Carolina as I believe that the important appropriations of the Department should go forward.

If the Helms amendment in question passes, the Interior appropriations conference report will be returned to the House, which would most likely delete the amendment and send the conference report back again to this Senate for consideration. While this is going on, our funds for the Department of Interior will be held hostage. The $5.6 million for land acquisition for the Fort Raleigh National Historic Site on Roanoke Island, NC, will be hostage to this NEA amendment. The land at Roanoke Island was first used by English colonists in the New World more than 400 years ago and may include archaeological remains of the Cittie of Raleigh. Ancient tribal sites of the Roanoke and Croatan tribes exist here, as well as the Civil War Battle of Roanoke Island and the site of the Confederate Fort Hunger. Other funds important to North Carolina sites will also be hostage to the delays caused by this process, those for the Chattooga Wild and Scenic River, Uwharrie National Forest, and Alligator River to name just a few.

Two years ago I supported a Fowler amendment which banned the NEA from funding obscene art. That is currently the law—the NEA cannot fund pornography. Last year legislation was passed that states if an NEA-funded work is deemed to be pornographic, the artist must repay the NEA for the grant. I voted for both of these amendments and am firmly in support of them.

In September of this year I supported the Helms amendment because I wanted to continue to send a message to the NEA that they need to be careful about the art they fund. I believe that the NEA got that message due to the strong support the Helms amendment received, and I believe they are taking action to improve their grant-making procedures. However, the funds contained in the Department of Interior appropriations bill are very important not only to North Carolina but to every State across the Nation. Holding up the Interior appropriations bill at this time would not be a wise action; it would not be to anyone's benefit. I join Senator ROBERT BYRD in voting for final passage of this bill without attaching the NEA amendment, which very well could kill this important legislation. No one has been more determined than Senator BYRD to be certain NEA funds are not to be used for improper purposes. I strongly support Senator BYRD'S balanced position.

Mr. SPECTER. Mr. President, I support the amendment offered by Senator HELMS to restrict funding from the National Endowment for the Arts for indecent artwork because I believe it is a legitimate constitutional limitation and it is necessary if funding for the arts is going to continue.

In Sable Communications versus FCC, the Supreme Court states that restrictions on indecent speech are constitutional so long as they are narrowly tailored to achieve their objective and not vague. Following that decision, the District of Columbia Court of Appeals in Action for Children's Television versus FCC upheld restrictions on television restricting material that depicts or describes, "in terms patently offensive as measured by contemporary community standards for the broadcast medium, sexual or excretory activities or organs." It is that exact definition which this amendment uses.

In my judgment, this is a fair and narrowly drawn limitation for works of art which are supported by Federal funding. There is a very strong feeling in our country, which I see reflected increasingly in my open house/town meetings in Pennsylvania, against offensive sexual materials, especially when they are federally funded.

An important consideration in coming to this conclusion is that I believe

all funding for the arts may be in jeopardy unless there are some parameters which comport with public sensitivity. If such parameters are not established, then I believe there is a great danger that public opposition may well result in the elimination of all Federal funding.

Mr. KOHL. Mr. President, I will support the motion to table the amendment offered by my good colleague from North Carolina.

When the Senate considered the Interior appropriations bill for fiscal year 1992, I supported his proposal. I did so, because like the Senator from North Carolina, I am flatly opposed to using taxpayer funds to pay for obscene art. There is no question about that, and his amendment clarified what I think was indeed the sense of the Senate in that regard and it improved the legislation before us.

During the conference with the House, the Senator's language was modified to explicitly prohibit funding obscene art, and to confirm a process wherein taxpayers can recover funds that have been used to support obscene workshops, productions and pieces of art.

In my opinion, the conference report language is an improvement of the Helms amendment in two ways.

First, the conference report reference to obscenity is broader. Many of my constituents find things other than "excretory organs" obscene and patently offensive. The committee amendment addresses those things.

Second, the original language that the Senator from North Carolina would like us to support today simply says, we shouldn't fund this type of art. Well, I agree. However, if we've learned one thing in the past few years, it is that there will be works of art or performances that will be funded that will offend the public. What we need is some way to get the public's money back from an artist who has used Federal funds to produce obscene art. The language in the conference report does that, and that is critical. We must have a way of holding these people responsible to the taxpayers.

Mr. President, as an original supporter of the Helms amendment, I am pleased that the conferees have taken this issue seriously. I am pleased that they have presented us with a proposal that is even better than the one included in the Senate-passed bill. I commend the chairman of the committee and urge my colleagues to support the motion to table the Helms amendment.

The PRESIDING OFFICER. (Mr. LIEBERMAN). All time is yielded back.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

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

Mr. BYRD. Mr. President, this vote to table the motion by the distinguished Senator from North Carolina is not a vote for obscenity. It is a vote in favor of the conference report, and a reaffirmation that obscenity is without artistic merit and shall not be funded.

I hope that Senators will vote to support my tabling motion.

I make a motion to table the motion of the Senator from North Carolina, and I ask for the yeas and nays on that.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia to lay on the table the motion to concur in the House amendment to Senate amendment, No. 164, with further amendment numbered 1299. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Pennsylvania [Mr. WOFFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 73, nays 25, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—73

Adams	Durenberger	Mikulski
Akaka	Exon	Mitchell
Baucus	Ford	Moynihan
Bentsen	Fowler	Murkowski
Biden	Garn	Nunn
Bingaman	Glenn	Packwood
Bond	Gore	Pell
Boren	Gorton	Pressler
Bradley	Harkin	Pryor
Breaux	Hatch	Reid
Bryan	Hatfield	Riegle
Bumpers	Inouye	Robb
Burdick	Jeffords	Rockefeller
Burns	Johnston	Sanford
Byrd	Kassebaum	Sarbanes
Chafee	Kennedy	Sasser
Cochran	Kerrey	Simon
Cohen	Kerry	Simpson
Conrad	Kohl	Stevens
Craig	Lautenberg	Symms
Cranston	Leahy	Warner
Danforth	Levin	Wellstone
DeConcini	Lieberman	Wirth
Dodd	Lugar	
Domenici	Metzenbaum	

NAYS—25

Brown	Helms	Rudman
Coats	Hollings	Seymour
D'Amato	Kasten	Shelby
Daschle	Lott	Smith
Dixon	Mack	Specter
Dole	McCain	Thurmond
Graham	McConnell	Wallop
Grassley	Nickles	
Heflin	Roth	

NOT VOTING—2

Gramm	Wofford

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore [Mr. BYRD].

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate recede from Senate amendment No. 130, that the Senate agree with the House position on amendment No. 191, and that the underlying amendment No. 164, as proposed by the House, be agreed to.

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

The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, the conference report is still before the Senate?

AMENDMENT IN DISAGREEMENT NO. 167

The PRESIDING OFFICER. Amendment No. 167 in disagreement is before the Senate.

The Senator from Alaska has the floor.

TONGASS NATIONAL FOREST

Mr. STEVENS. Mr. President, apparently some have the impression that this year's National Forest funding levels are not consistent with the Tongass Timber Reform Act. However, that is not the case.

Before the Tongass Reform Act passed, region 10 had a special permanent appropriation for timber sales activities in the Tongass. We gave that up under the Reform Act and agreed to be treated like other national forests—taking general decreases and accepting general increases.

Indeed, the statement of managers which accompanies the Interior appropriations bill makes this clear. The managers say:

> The net change to the budget request for timber stand improvement is to be applied nationally, since the managers agree that no specific reductions in any budget activity will be directed at the Tongass National Forest. Funding for the Tongass National Forest is to be treated as any other national forest. General increases will go to the Tongass, and so will general decreases.

We also accepted a provision under the Reform Act that the Forest Service would "seek to meet" the market demand for timber. As a result, timber operators gave up some security and relinquished a guaranteed level that was to average about 4.5-billion board feet per decade.

Four hundred and fifty mmbf per year was not the rule under the old management regime even though the law required it; 412 mmbf is the most volume released since 1986.

History evinces that funded timber sale preparation levels do not directly relate to harvest levels. Congress might appropriate funds for 420 mmbf, but 420 mmbf will not necessarily be released to the operators, nor will it be cut. Court and administrative challenges delay sales and reduce timber supplies. That is partly why we have timber supply shortfalls.

And do you know who pays for this? Taxpayers. That's right. U.S. taxpayers. Under the Equal Access to Justice Act fees and costs are awarded in successful court challenges to a timber sale EIS. As a result, there is no incen-

tive for these groups not to sue. They sue to stay in business.

The timber supply is constrained and we are in this shortage situation, in part, because of challenges. There are, 170 mmbf enjoined in the Tongass now. Another 20 mmbf is administratively stayed.

Appeals, injunctions, notices of appeal, or informal notices of appeals are the rule on many sales.

For fiscal year 1992, the first year after the Tongass Timber Reform Act, the Senate Interior Appropriations Committee treated timber preparation funding in the Tongass like other national forests. There was no special treatment.

In contrast, the House sent a bill to the Senate which specifically cut funding for the Tongass to a level to produce only 300 mmbf. The budgeted level was 420 mmbf. All regions, including region 10, had timber sale preparation levels set out in the Senate bill.

The Senate bill went through subcommittee, full committee, and the Senate floor, before conference. The ultimate compromise included in this report was funds to produce 420 mmbf, a level developed the same way timber preparation levels for other regions were reached. Incidentally, 420 mmbf is a level below which industry and the Forest Service estimate market demand to be in fiscal year 1992.

The timber supply was constrained this year in the Tongass. Heavy snowfall didn't allow prompt commencement of work in the beginning of the operating season. Then, when the season started, there was not nearly enough released, roaded timber for the companies to operate on. Weeks in which the traditional harvest was 15 to 35 mmbf, it reached only 2 to 5 mmbf due to this constrained timber situation.

Litigation is partly to blame for this situation. The 170 mmbf enjoined would have all been harvested if it were available. Much of the 20 mmbf stayed administratively would have also been harvested. Thus, the actual cut last year would have approached 490 mmbf. That is 70 mmbf less than the compromise in the appropriation bill for this year. And actual cut in prior years is not necessarily the only indicator of market demand.

The Forest Service has estimated market demand in the near term—fiscal year 1992—to be 470 mmbf. I ask unanimous consent to have printed in the RECORD two letters from the Forest Service that explain their view on market demand for the Tongass. The letters also explain why it is so important to have volume built up in the timber pipeline which can be accessed for harvest.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Juneau, AK, October 23, 1991.

Mr. HOWARD WEAVER,
Editor, Anchorage Daily News,
Anchorage, AK.

DEAR MR. WEAVER: Your paper has recently run articles regarding the FY 92 budget and timber sale preparation levels for the Tongass National Forest. It's apparent that there is a misunderstanding of the relationship of sale preparation to actual timber harvest.

Sale preparation is a lengthy process; normally three years or more depending on the complexity of the sales, appeals, and litigation. Tax dollars allocated in the FY 92 budget will be invested in sales that will not be harvested until future fiscal years. Only very rarely is it possible to prepare a sale that can be ready for harvest in the same year.

Much has been made of the 450 million board feet per year. Some allege that to have a sale prep level of that quantity is failure to observe the recently enacted Tongass Timber Reform Act (TTRA). That simply is not true! Congress recognized that this was a decadal quantity which they stated in ANILCA as 4.5 billion board feet per decade. In any given year more or less than 450 million board feet could be offered so long as the total harvest for the decade did not exceed 4.5 billion board feet. The amount of timber harvested during the decade is the controlling factor, not the amount of timber prepared for sale in any particular year.

Under the current Tongass plan, 4.5 billion board feet per decade was determined to be sustainable in perpetuity from the 10% of the Tongass that is available for timber harvest. TTRA further reduced the amount of land available for timber harvest and prescribed other measures so that the amount of harvest that can be sustained is less than the 4.5 billion board feet per decade. The precise level is being determined.

The best management of the timber sale process is possible when there is enough timber prepared in advance so that sales offerings in any particular year can be adjusted to reflect the current situation. Indeed, to fulfill Congressional direction in TTRA to seek to meet market demand requires that enough timber sales be prepared in advance to provide this flexibility. Two to three times the average annual harvest is desirable. Currently, less than one year average annual harvest is available.

Finally, contrary to your reports, the timber program on the Tongass is a moneymaker for the American public. It's true that during the downturn of the timber markets in the middle 1980's, which has been described by some as the worst in 50 years, expenditures for timber sales exceed receipts. In FY 90, the timber program returned $2 for every $1 spent. The returns would have been even greater if purchasers of timber from the National Forests in Alaska were allowed to sell logs for processing elsewhere rather than being required to process them in Alaska to provide jobs for Alaskans.

Sincerely,

MICHAEL A. BARTON,
Regional Forester.

DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Juneau, AK, October 24, 1991.

Hon. TED STEVENS,
U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: This is in response to a verbal request from Duane Gibson, of your staff, for clarification of the Forest Service's interpretation of the Tongass Timber Reform Act, Section 101, direction to:

". . . seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber for such forest and (2) meets the market demand from such forest for each planning cycle."

As you know, economic forecasting is less than an exact science, particularly with respect to the more distant future. We make such forecasts based on the best available information. A great many variables go into the development of these projections and, over time, we monitor and make adjustments to our forecasts as deemed prudent.

We currently estimate that harvest from the Tongass, necessary for total supply to meet average annual expected demand, is predicted to be near 400 MMBF from 1990–2010. This projection was developed by researchers at the Pacific Northwest Experiment Station. The researchers reviewed a series of six studies known, collectively, as the Alaska Timber Market Studies. The results are documented in a report entitled, "An Analysis of the Timber Situation in Alaska: 1970–2010" (August 1990). A separate estimate by the Alaska Forest Association places the average annual market demand for the Tongass at 565 MMBF, or higher. Total mill capacity in Southeast Alaska is over 800 MMBF.

As for the near term, this projection could, and probably will, vary significantly. Historically, we have based our annual requests for funding the timber program on anticipated timber harvest levels. This is based on the most current timber harvest levels and what we can foresee in terms of the many factors which can effect demand.

Currently, we anticipate that the mills at Klawock and Haines will reopen in 1992 and that, as a result, timber harvest levels on the Tongass will be about 470 MMBF in FY 92. In order to meet the demand, we would need to prepare and offer new sales in FY 92 that approach 470 MMBF, We would also need to begin building enough volume under contract so that timber purchasers have the opportunity to meet fluctuating demands in future years. Such an amount under contract would equal 2–3 years of the average harvest volume. Currently, less than one year of the anticipated annual harest volume is under contract.

In summary, while a large number of unforeseeable economic, political, and other factors can effect demand, we anticipate that the long-term average annual timber demand from the Tongass will be around 400 MMBF with near term demand being around 470 MMBF.

Sincerely,

MICHAEL A. BARTON,
Regional Forester.

Mr. STEVENS. Mr. President, in addition, market demand from Federal lands in the Tongass may be increasing even more. Timber harvests from Native corporation lands, which supply fiber to the mills in southeastern Alaska, are rapidly declining. Thus, overall demand from Federal lands should be increasing over the coming years.

I also ask unanimous consent that a table from the Forest Service be printed in the RECORD. The table shows the volume offered and harvested—in net sawlog and net sawlog plus utility—and the appropriated sale preparation since 1986—always given in net sawlog.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TONGASS NATIONAL FOREST TIMBER SALE OFFER/PREPARED AND HARVEST LEVEL, FISCAL YEARS 1986–91

[In million board feet]

	Offer/prepared [1]		Harvested [2]		Appropriated sale [3] prep (sawlog)
	Sawlog	Total [3]	Sawlog	Total	
Fiscal year:					
1986	382	440	251	291	412
1987	396	452	282	336	378
1988	337	387	332	396	348
1989	320	369	377	445	300
1990	334	385	399	471	340
1991	341	395	300	364	[4] 383

[1] Offered/Prepared is used to measure annual attainment of appropriated targets. For short-term sales, volume is included when the sale has been advertised. For long-term sales, volume is included when the harvest unit has been fully prepared and available for release to the purchaser. Fiscal Year 1990 sawlog volume was reported as 310 in the draft 1990 Timber Supply and Demand Report. This was corrected to 334 in the final report.

[2] Harvest includes only volume that has been cut, scaled, and paid for. The annual volume is from the Timber Sale Automated Statement of Account (TSA).

[3] Total includes both chargeable net sawlog volume and utility log volume.

[4] 353 MMBF was assigned to the Tongass in the budget/appropriation process. 383 was attained when salvage sale contributions were factored in.

Mr. STEVENS. In this year's appropriation process, we have not treated the Tongass differently from other national forests and we have not mandated a particular cutting level. Rather we have suggested a preparation level before legal and administrative challenges take their toll.

Last, contrary to the view of some, there are no taxpayer subsidies in the Tongass National Forest. In fiscal year 1990, the Tongass timber program returned $2 for every $1 spent. The Tongass is number 16 of 154 national forests for returns. It is a positive cash flow timber program.

REMOVAL OF MINING PATENT MORATORIUM

Mr. STEVENS. Mr. President, a mining patent moratorium was removed from this year's Interior Appropriation Bill. I might add, this is the second year in a row that the Senate removed this provision.

For miners in Alaska, and throughout the rest of the West, stopping this back door attempt to change a central part of the mining law through the appropriations process was important to preserving a good law that works well.

Last year when we had the debate on the mining patent moratorium, I said that I was going to frame the vote. And I did just that. It is hanging right behind my desk. This year's vote on the moratorium was closer than last year's Senate vote.

This Senator is even more concerned than last year with the moratorium trend in appropriations bills. When this type of moratoria are used as short cuts to lever legislative changes that are not coming out of the authorizing committee, it is just plain wrong.

Sometimes I do not think some in the East comprehend our problems as public land States in the West. Before we can do anything on our land we must get clearance after clearance from a host of Federal agencies.

There ought to be more understanding from those in the East who make decisions here in Congress that significantly influence economies in the West. I am working on a bill now called the Public Lands Equitable Distribution Act. The measure will propose a way to better distribute the different types of public lands throughout the country.

I also think that some from the East do not understand how their economies are linked to Western economies. I asked the miners in Alaska, do a little survey for me on where they purchase their supplies and products. I will include the results of this survey after my remarks.

Alaska miners purchase their mining supplies from 48 States, plus the District of Columbia. I hope Senators realize that if miners are forced out of business by bad changes in a good mining law, the impacts will be felt across the country.

I understand that field hearings on broader mining law reforms under the Bumpers bill are being scheduled in Western States

To me that is encouraging. If this law should be changed, it should be changed through the legislative process and the people directly affected by the substantive changes should be given an opportunity to be heard. The appropriations bill just is not the place for those substantive changes.

I want to thank those in the Senate who supported the miners.

Mr. BYRD. Mr. President, there are too many conversations going on around the Chamber. I ask for order in the Senate.

The PRESIDING OFFICER. The President pro tempore is, as usual, correct. Will Senators please remove their conversations from the Chamber?

The Senator from Alaska.

Mr. STEVENS. Mr. President, I do thank the distinguished President pro tempore, because I was just going to thank the Senators, and this certainly includes the distinguished chairman of our Appropriations Committee. I want to thank all who supported the miners again this year and removed the patent moratorium from this bill.

I urge everyone to think of using the legislative process for any amendment that should be made to the general mining laws.

I ask unanimous consent that the survey results, to which I referred earlier, be printed in the RECORD.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

States From Which Alaska Miners Purchase Mining Supplies

State	*Number of firms supplying AK Miners*
Alabama	4
Arizona	28
Arkansas	3
California	154
Colorado	85
Connecticut	22
Delaware	3
Florida	11
Georgia	25
Hawaii	2
Iowa	11
Idaho	20
Illinois	98
Indiana	10
Kansas	6
Kentucky	9
Louisiana	6
Maryland	7
Massachusetts	21
Michigan	30
Minnesota	25
Mississippi	4
Missouri	29
Montana	2
Nebraska	2
Nevada	29
New Hampshire	6
New Jersey	32
New Mexico	3
New York	41
North Carolina	7
North Dakota	1
Ohio	57
Oregon	66
Oklahoma	15
Pennsylvania	92
Rhode Island	4
South Carolina	6
South Dakota	4
Tennessee	10
Texas	64
Utah	50
Vermont	1
Virginia	20
Washington	330
D.C	8
West Virginia	2
Wisconsin	47
Wyoming	5

Mr. BYRD. Mr. President, so far as I know, there is only a possibility that there may be one more motion or amendment offered in connection with the amendment in disagreement. I do not see either Senator SIMPSON or Senator MURKOWSKI on the floor, but it will be one or both of those Senators.

Until we are able to hear any indication from them as to what their wishes are, as far as I know, there is no other action on this matter.

Does the majority leader wish to proceed to something else, or seek to utilize the time right now?

Mr. NICKLES. Will the chairman yield?

Mr. BYRD. Yes.

Mr. NICKLES. I have consulted with the Senator from Wyoming, who is on the floor now. We are hopeful we will be able to wrap this one last amendment up in the next 15 or 20 minutes and dispose of this bill. So I think we are getting very close.

Mr. BYRD. So what the Senator is saying, then, it may be 15 or 20 minutes before we are able to dispose of this.

Mr. NICKLES. That is correct.

Mr. STEVENS. Will the Senator yield for just one question? Is it anticipated there will be a rollcall vote on that amendment?

Mr. BYRD. I do not anticipate one.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislation clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MITCHELL. Mr. President, last evening and earlier today, I indicated that it was my hope that we could complete action at an early hour this evening on this bill so that those Senators with small children could spend the evening of Halloween with them—there are several Senators in that situation—and that following action on this bill, we would return to the energy bill for such debate and discussion as those Senators who wished to may participate in.

I now ask the managers whether or not we have reached a stage with respect to the Interior bill that would permit me to announce that there would be no further rollcall votes. If we could proceed to finish the bill, those Senators who wish to spend the early part of the evening with their children could do so.

I ask the distinguished chairman whether or not it is possible for me to make that announcement now.

Mr. BYRD. Mr. President, if the distinguished majority leader will yield, as far as this bill is concerned, this conference report, there will be no more rollcall votes.

There is one amendment in disagreement that remains, and it is being held open so that Senator SIMPSON and Senator MURKOWSKI and possibly—there are one or two other Senators interested—Senator KOHL. If one or more of those Senators wish to make a motion in regard thereto I will be willing to accept the motion because it is my understanding the matter would be accepted in the House if it came back, and the measure would go to the President.

That is the only thing that remains. That would not require a rollcall vote. So, in response to the majority leader, I anticipate and can assure the distinguished majority leader there will be no more rollcall votes on this matter.

Mr. NICKLES. I concur. There will be no rollcall request made on this side. I think we are finished with this bill shortly.

Mr. MITCHELL. In that event, Mr. President, there will be no further rollcall votes this evening. There will be a rollcall vote tomorrow morning at a time to be stated, which I will state after further consultation with the distinguished Republican leader. That will occur tomorrow morning.

For now, there will be no further rollcall votes today. Mr. President, might I inquire what length of delay you anticipate before you are able to resolve the one pending matter to which you referred?

Mr. BYRD. It is my understanding 15 minutes.

Mr. NICKLES. If the majority leader will yield just for a question as far as tomorrow is concerned, some of us have two or three plane reservations already scheduled. Could you give us some kind of idea when we might vote tomorrow?

Mr. MITCHELL. Yes. Tomorrow morning.

Mr. NICKLES. In the morning?

Mr. MITCHELL. Yes.

Mr. NICKLES. I thank the majority leader.

Mr. MITCHELL. Mr. President, I will repeat then, there are no further rollcall votes this evening. There will be that one rollcall vote tomorrow.

I would like to suggest, if the managers do not object, we now return to consideration of the energy bill until such time as the chairman is ready to complete action on the Interior appropriations conference report, with the understanding that the Senators engaged in debate on energy would yield to the chairman to return to that when they are ready to complete action on that bill. Then the debate can continue on the energy bill and there will be no intervening time lost. Is that agreeable to the distinguished manager?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. The Chair recognizes the Senator from Louisiana.

NATIONAL ENERGY POLICY ACT

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. JOHNSTON. Mr. President, if I may bring my colleagues up to date on the state of play as far as the energy bill is concerned, tomorrow morning, Mr. President, 1 hour after convening at an hour to be agreed upon, we will have a cloture vote on the motion to take up the bill. Mr. President, I hope my colleagues are willing to consider a comprehensive energy policy. S. 1220 is that comprehensive energy policy. It is 16 titles. It involves both energy efficiency and alternative fuels—a very extensive program. Energy conservation, it has a CAFE section—that is fuel efficiency for automobiles—along with natural gas, Outer Continental Shelf, strategic petroleum reserve, nuclear energy—that is both nuclear licensing and research on new reactors.

It involves research on such things as biomass, electric cars, wind energy—the whole of what is generally referred to as the soft path—as well as clean coal and other technologies.

Mr. President, there are controversial sections of this bill no doubt. The Arctic National Wildlife Refuge is probably the most controversial part of the bill. But, Mr. President, I plead with my colleagues, those who are opposed to that provision, to let us take up the subject of comprehensive energy policy. Let us first consider those matters that do not involve the Arctic National Wildlife Refuge, that do not involve CAFE standards, and see if the Senate can work its will on them.

Let us bring up the issue of nuclear licensing, for example, and see whether or not we can come to an agreement, come to a consensus of Senators on the subject and lay that question, then, aside.

Let us work on energy efficiency, that the Senator from Colorado, [Mr. WIRTH], has spent so much time on. Let us see if we can come to a consensus on energy efficiency. I think there are some 20 amendments, possible amendments, to that. We are prepared to accept many of those energy efficiency amendments. Let us see if we can get an agreement in place for energy efficiency.

Let us do the same thing with these other titles and then, when we finish that, it would be my intention to put in an amendment with respect to ANWR and/or CAFE, or both together. At that time the filibuster could then proceed. I am not asked for any concession at all from my colleagues with respect to their right to filibuster. I am not asking for it because I would not get it. But unless we can get 60 votes on that issue of ANWR, we know we cannot pass it. I am frank to tell the Senate I do not believe we could get it.

But at least this Senate ought to consider comprehensive energy policy. Everybody is singing from the same song sheet as far as the problem is concerned. I have not heard anybody here say we do not have a problem as far as energy dependency is concerned. The Senator from Colorado makes a better speech on that than the proponents of the bill do. It is just that we have not come to a meeting of the minds on the elements of energy policy.

Frankly, I think this Senate would look awfully silly to say we are not going to consider comprehensive energy policy. I think we would look awfully silly. And anybody who thinks that you are going to kill this bill and then you are going to send it back to the Energy Committee and they are then going to come up with a bill that everyone likes—we heard this morning that each section was salvaged separately by different Senators. We started off with the Senator from Colorado [Mr. WIRTH] who is on the committee and has worked on it. He said, look, but for ANWR, it is a great bill. And then the Senator from Montana said it is a sorry bill, there is nothing good about it. Then the Senator from Minnesota said approximately the same thing. Everyone—like the blind men and the elephant—sees it differently. So be it, that is what democracy is about. That is what this Senate is about, the greatest deliberative body in the world, so we say.

Why do we not deliberate on this very important policy of energy and work our will on that as to which we can get achievement on and move this country? If we cannot move it all the way, then let us move it part of the way. But to say you cannot even talk about it, we are going to put a gag rule on the Senate as far as energy is concerned, and then to say if this bill fails you will think of something—you have to be dreaming, Mr. President. That is what we have done for 19 years.

The Senator from Nevada [Mr. BRYAN] brought up his CAFE standard bill some time ago by itself, in isolation, and he could not get past the cloture. And if he brings it up again by itself he will not be able to get past the cloture.

The same thing is true with any of the elements of the bill not taken together. And one not think you can get energy efficiency so quickly either. Some Senators say the energy efficiency provisions are not very strong. You have not seen the opposition. The National Association of Homebuilders, for example, objects to energy standards for buildings and for homes. They think it goes too far. They do not want these standards.

I appreciate that. I am sympathetic with them. I like that group. But you just cannot bring up little bits and pieces by itself and expect that it is going to happen. Mr. President, I plead with my colleagues to think this thing through. If you sink this package, and it is clearly within the ability of this Senate to sink it, then do not kid yourselves, you have sunk energy policy because there is no quick consensus.

We cannot go off in the room over there and come back with a consensus if we take ANWR out. And, by the way, how would I take ANWR out? I very strongly believe that the 1.2 million acres, which is a part of the Arctic National Wildlife Refuge in which we want to drill, leaving the other 34-odd million acres of the Arctic National Wildlife Refuge undisturbed, I strongly believe you can drill there and do so safely without any harm.

I know that it is part of 3.355 billion acres of tundra in the Arctic, and that it is not harmful to the wildlife. But let us suppose I changed my mind completely. Now just how would I keep the Senators from Alaska from bringing that issue up for a vote?

Let me say you brought back a bill that the Senator from Minnesota wanted, and it is energy efficiency, and it is conservation, and it is all of those things he talked about this morning. What is the first amendment out of the box? ANWR. You have to face that issue. And is he going to then filibuster his own bill? Are you then going to say we are not going to consider anything if ANWR is brought up as an amendment?

If you are saying that, then you are giving to any Senator a right to kill any legislation as to which there is not a unanimous consent, because all he has to do is say I want to put ANWR on as part of that bill, because then that means you have an automatic filibuster which is successful.

So, Mr. President, I see we are about ready to finish up this other bill. Let me plead with my colleagues, let me plead with this body to let us consider energy policy on the floor of this Senate and let sections of that bill rise or fail on their merit. You do not have to give up your right to filibuster ANWR by considering energy efficiency. Let us see if we can agree what energy efficiency ought to be as policy. Let us see if we can agree on these other matters, preserving everyone's right to filibuster ANWR. That is all we ask. We will vote on it tomorrow.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Oklahoma.

Mr. NICKLES. Thank you very much, Mr. President. It is my hope and desire we can conclude the Interior bill. I believe the Senator from Wisconsin has an amendment. This will be the last amendment that we have, and then I believe we have some colloquies we want to insert in the RECORD and we can finish this Interior bill in the very near future.

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. KASTEN].

UNANIMOUS-CONSENT AGREEMENT

Mr. KASTEN. Mr. President, I ask unanimous consent that the Senate recede to the House position on amendment No. 167 and at the same time the agreement of yesterday adopting amendment No. 175 be vitiated; and that it be in order that I offer a further amendment to amendment No. 175.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, I have no reason to object——

Mr. BYRD. Mr. President, I interpose no objection on this side. This has been cleared.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Mr. President, this amendment has been cleared with us.

Mr. METZENBAUM. Reserving the right to object, did I understand the Senator from West Virginia to say no objection? Does he know what the amendment is about?

Mr. BYRD. Yes, I do.

Mr. METZENBAUM. I did not know what the amendment was about. I have no problem.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

AMENDMENT NO. 1300 TO AMENDMENT IN DISAGREEMENT NO. 175

Mr. KASTEN. Mr. President, I send an amendment to the desk on behalf of myself, Senator MURKOWSKI, Senator SIMPSON, and Senator KOHL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN], for himself, Mr. MURKOWSKI, Mr. SIMPSON, and Mr. KOHL, proposes an amendment numbered 1300 to the amendment in disagreement No. 175.

Mr. KASTEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On amendment No. 175 insert before the "." "*: Provided further*, That within the funds appropriated in this bill for Fossil Energy Research and Development, $5,000,000 shall be made available for planning, design and initial construction of the Heartland project".

Mr. KASTEN. Mr. President, this is not a clean-coal amendment. This amendment merely provides the funds appropriated in this bill for fossil energy research in the sum of $5 million will be made available for the planning, design and related activities for the Heartland project. The Department of Energy will provide this research and development funding and the project itself will provide significant levels of private funding as well to allow progress to go forward on this innovative technology. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment.

The amendment (No. 1300) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. I thank the Chair, and I thank the Senator from West Virginia and the Senator from Oklahoma.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment No. 175, as amended, be agreed to.

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

Amendment in disagreement No. 175, as amended, was agreed to.

Mr. BYRD. Mr. President, I ask that the motion to reconsider be laid upon the table.

The motion to lay on the table was agreed to.

THE UNIVERSITY OF NORTH DAKOTA ENERGY AND ENVIRONMENTAL RESEARCH CENTER

Mr. BURDICK. Mr. President, the fossil energy research section of the fiscal year 1991 Interior appropriations bill includes $4,750,000 for ongoing re-

search at the University of North Dakota Energy and Environmental Research Center [UNDEERC]. UNDEERC receives these funds under a cooperative agreement with the Department of Energy. Though this agreement is set to expire during fiscal year 1992, the bill does provide funding for the entire fiscal year and it is my understanding that it is the committee's intent that DOE and UNDEERC sign a new 5-year cooperative agreement at current funding levels. Mr. President, I would like to ask the chairman of the committee, Senator BYRD, if this indeed was the committee's intent?

Mr. BYRD. This is correct. It is the committee's intent that a new 5-year cooperative agreement be signed at current funding levels and that UNDEERC continue its efforts to increase its share of non-Federal research contracts.

Mr. BURDICK. Thank you, Mr. President. I should add that since this facility was transferred from the Department of Energy, the center has done an outstanding job of attracting research contracts with private industry. Particularly successful has been the jointly sponsored research project program. UNDEERC has been able to extensively leverage this money with private funds. In fact, since 1988, UNDEERC has increased its work with private industry fivefold.

ADVANCED BATTERY RESEARCH PROGRAM

Mr. KASTEN. Mr. President, I would like to engage the distinguished floor manager in a colloquy regarding the funding for the Department of Energy, specifically the advanced battery research program. I would first commend the floor manager, the chairman of the Interior Appropriations Subcommittee, for his leadership in providing this important program with the resources necessary to pursue the U.S. advanced battery consortium [USABC] goals. My specific concern, however, is whether he and his committee view the program as crucial to the development of electric vehicles?

Mr. BYRD. I thank the Senator for his comments. This program is crucial. In order to meet any near-term electric vehicle production date—to produce an electric vehicle which is of practical cost and utility and can be a reliable vehicle choice for an American family as well as the commercial and industrial uses—we will need battery technology which is safe, reliable, and environmentally attractive. The State of California has mandated the use of zero-emission vehicles by 1998 to help solve the air pollution problems in the Los Angeles basin. To meet that goal it may be necessary to demonstrate full-scale battery feasibility and pilot-scale production capability by late 1994. That is indeed "near term."

I have been greatly encouraged that private industry has made a very substantial financial commitment to this program. In that regard the appropriations bill includes language that requires a 50-percent cost-sharing level by the non-Federal participants in the program.

Mr. KASTEN. I thank the chairman for his description of the program and for his insightful comments. I believe that it is only through this combined Federal and private sector effort that we will be able to reach that very short-term goal and be able to provide not only Californians, but all Americans, and foreign consumers, with an affordable pollution-free vehicle in this decade. I believe we would all rejoice to begin the next century with less air pollution and with a greatly reduced dependence on foreign oil.

However, I am very concerned with reports I have received that there may be a preconceived perception by some managers of the program that the most widely used and currently available technology, lead-acid battery technology, is somehow limited and outdated. As a result, additional research and development on this most viable candidate is being eliminated. Ironically, I am also being told that lead-acid technology could be the quickest and least expensive route to effective electric vehicle development.

Mr. DECONCINI. If the Senator will yield, I would like to say that I completely share his concern. Although the familiar battery now in common use is not adequate to future electric vehicle [EV] use without modification, I am told that there is an advanced form of lead-acid technology that combines traditional lead-acid electrochemistry with the principles of gas recombination. This results, I understand, in products that are maintenance-free, viable in any position, smaller, lighter, and more powerful than flooded lead-acid analogs. These batteries are apparently safer, more versatile, and like existing lead batteries, are expected to be completely recyclable.

Additionally, research is being conducted in my State, within separate Federal and State funded programs, on related technology advancements, such as optimizing the charging cycle of lead-acid batteries using photovoltaic cells. Because of the increase in electrical generation that electric vehicles will require, the use of solar energy, especially in the Southwest, may be a very practical consideration in our overall research strategy. So, I would certainly hope that this, or any technology, which has proven reliability, and which shows promise, would not be prematurely eliminated.

Mr. KASTEN. I thank my distinguished colleague and would add that it is my understanding that some electric vehicle prototypes, now being experimented with independently, are utilizing lead-acid battery technology. The technicians apparently believe this technology, with additional research in ways to exploit polarization and other inherent characteristics of lead-acid technology, some unique to lead-acid technology, could best accomplish near-term success. Research successes involving lead-acid batteries are especially desired because the infrastructure for manufacturing and distributing these batteries is already in place, which gives lead-acid batteries a substantial advantage in any commercialization strategy.

I would like to inquire of the distinguished floor manager if it is the committee's intent to include all viable technologies, including lead-acid technology in this very critical phase of the research program? And whether the committee views the potential recyclability of battery materials as an important consideration?

Mr. BYRD. I would assure the Senator that it is not the committee's intent to eliminate any technology from participation in the program and that the potential recyclability of battery materials is an important consideration. Of course, we will be influenced by what the technical experts, at DOE, think is reasonable and in the public interest.

Mr. KASTEN. I thank the chairman for his clarification. Because of the scope and scale of this program, any technology being omitted from further research and development would mean, in effect, the end of Federal funding for research on those technologies. It could also greatly limit our opportunities as a country to produce efficient and competitive electric vehicles to meet a great and immediate domestic and world demand. I would hope we could receive a report from the department, within the near future, on the technologies being developed. And I think we should be prepared to address these concerns during the fiscal year 1993 appropriations hearings.

I again thank the very distinguished floor manager, the chairman of the Appropriations Committee, for his excellent comments and insights.

TONGASS NATIONAL FOREST TIMBER ISSUES

Mr. STEVENS. Mr. President, I want to thank my good friend Chairman BYRD for his kind cooperation in working out the details of this tough bill. I especially appreciate the work of him and his staff on timber issues related to the Tongass National Forest in southeast Alaska.

Last year Congress passed the Tongass Timber Reform Act which substantially changed the operation of the Tongass. The cost of implementing this act was quite high—at least $1.2 million in immediate costs to comply with new legislative mandates—according to the Forest Service. Long-term contracts with the two large mills had to be rewritten, timber sales had to be reworked, stream buffers were required to be redone. All of these mandated requirements came to a substantial sum.

Addressing these costs meant all the timber that was to be prepared and offered in fiscal year 1991 was not completed.

Since costs of implementing the reform act were unknown at the time of budgeting, we added $1.2 million in the Senate bill to replenish these costs. I ask my friend from West Virginia, if he will, to explain how these funds will be allocated.

Mr. BYRD. Certainly. The statement of the managers directs the Forest Service to allocate additional funds needed to replace fiscal year 1991 timber preparation funds for the Tongass. As the Senator has indicated, the Forest Service estimate of these costs is at least $1.2 million, which is the amount we provided in the Senate bill.

Mr. STEVENS. I understand that the Statement of Managers which accompanies this conference report makes that amount available "within existing funds." Is my interpretation of this language correct, in that before funds are allocated between the several regions, Tongass implementation costs should be allocated to region 10?

Mr. BYRD. The Senator is correct. These funds are in addition to the funds necessary to conduct the fiscal year 1992 sales program of 420 MMBF for region 10. The additional funds are to be used to replenish timber preparation funds that were actually used to implement new requirements under the new authorizing act so that the needed environmental work for all sales anticipated in fiscal year 1991 may be completed and the sales proceed.

Mr. STEVENS. I thank my good friend, Chairman BYRD.

STEWARDSHIP END RESULT

Mr. DECONCINI. Mr. President, when the Senate considered the fiscal year 1992 Department of the Interior and Related Agencies Appropriations Act, my amendment to initiate an experimental program on the national forests in the Southwest, regions 3 and 4, involving the use of land management service contracts, or "Stewardship End Result" contracts, was accepted and included in the bill to be considered by the conferees.

The amendment, in the form of bill language was considered and accepted by the conferees, but with certain modifications. First, the pilot program has been limited to the Kaibab National Forest in Arizona and Dixie National Forest in Utah. Second, language regarding the distribution of 25 per centum payments to local governments was deleted because of uncertainty as to the mechanisms involved.

As a member of the conference committee, I would like to assure local governments, however, that is my understanding, that there remains a total commitment to 25 per centum payments in the experimental program and the committee will be looking for a report from the Forest Service on how this is best accomplished administratively. I would like to ask my distinguished colleague from Utah, Mr. GARN, who was also a member of the conference committee, if he shares that understanding.

Mr. GARN. I thank the Senator and would like to say emphatically, that I share his understanding that that remains a total commitment to the 25 per centum payments from timber receipts. I also understand that the difference in bill language reflects the possibility that no change in current law may be necessary and that we need to look at how the program can be administered more effectively. These payments are very important in Utah, as I am sure is the case in Arizona, and I will join with the Senator in reviewing this experimental program as it is developed this year, to make sure the commitment is honored.

Mr. DECONCINI. I thank the Senator and would like to add that the committee can revisit the structure of the bill language during the review of this program as we consider the fiscal year 1993 appropriations requests, and any necessary changes can be made at that time. I would again like to extend my appreciation to the Chairman for his support and leadership, and to all of the conferees both House and Senate, and certainly to staff members who have worked so well to develop this program legislatively.

Mr. STEVENS. Mr. President, as I have said before, I want to again thank Chairman BYRD and his staff for their understanding of the tight timber situation we are facing in the Tongass National Forest.

The chairman met the difficult task of absorbing a large off budget item—the old Tongass timber supply fund—into this appropriation bill. This is a great accomplishment given the tight 302(b) allocation for the subcommittee. It should be clear that no special fund exists for the Tongass, as did in the past. The Tongass will be receiving its funds in the same manner as do all the other national forests.

Chairman BYRD and Chairman YATES have been most understanding in providing $20 million for a national timber pipeline initiative. Under the compromise with the House, the Forest Service is to report to the committee on a proposed distribution of funds for this initiative, and the Forest Service is also required to allocate the funds according to factors spelled out in the statement of managers. Would the chairman be willing to briefly explain the allocation of funds for this initiative?

Mr. BYRD. Yes, I would. The Senate bill provided $30 million for the timber pipeline initiative, but the compromise was $20 million.

I am aware of the great need for pipeline funds in region 10. I understand that this year there was a severe shortage of timber in Alaska, less than a 6-month supply. In allocating the funds for the pipeline initiative the Forest Service should consider the need to build up the timber pipeline in region 10.

The statement of managers directs the Forest Service to distribute funds for the pipeline initiative based on several factors, including the existing pipeline levels, market demand meeting requirements in the law, and the need for advance work such as road construction. We set out these factors so that the pipeline will begin to fill up and needless work won't be done on an uncertain land base. I expect that when the Service weighs these factors, region 10 will fare well for pipeline initiative funds.

Mr. STEVENS. I thank my friend, Chairman BYRD.

REINTRODUCTION OF WOLVES TO YELLOWSTONE

Mr. WALLOP. Mr. President, on page 16 of the statement of managers, the managers have agreed to include language which would direct the Fish and Wildlife Service to complete an environmental impact statement on the reintroduction of wolves to Yellowstone National Park. The managers further agreed that the environmental impact statement is to cover a broad range of alternatives. I would like to ask the chairman of the committee whether the wolf management report referred to in H.R. 2686 as passed by the Senate on September 19, 1991, is to be considered as one of the alternatives?

Mr. BYRD. The Senator is correct, and I believe my colleague, the distinguished ranking member of the subcommittee, concurs in my assessment.

Mr. NICKLES. If the Senator will yield for a moment.

Mr. BYRD. I yield to the Senator from Oklahoma.

Mr. NICKLES. I thank the Senator and would say to my colleague from Wyoming, the managers report language does not disagree with nor negate the language of the Senate-passed bill. The Senator from West Virginia is correct—a broad range of alternatives would include the recommendations of the Wolf Management Committee report published as and entitled "Reintroduction and Management of Wolves in Yellowstone National Park and Central Idaho Wilderness Area."

Mr. WALLOP. Mr. President, I thank both the Senator from West Virginia and the Senator from Oklahoma for their response and appreciate their assistance in this very important matter.

CHISHOLM, ELLSWORTH, AND WESTERN CATTLE DRIVE TRAILS

Mrs. KASSEBAUM. Mr. President, I would like to thank the distinguished chairman of the Committee on Appropriations, who is also chairman of the Subcommittee on Interior, for his generosity in including in this year's appropriation funds, for a feasibility study of the Chisholm, Ellsworth, and

Western Cattle Drive Trails and eight frontier cavalry forts in Kansas.

For clarification purposes, I would like to ask the distinguished chairman if it is his understanding that funds referenced in the conference report for the study of the cattle trails are to be used for the study of the cavalry forts as well?

Mr. BYRD. Yes, it is my understanding that the funds that were appropriated by the conference committee are to be used to study both the cattle trails and the cavalry forts. We think these are good projects, and we were delighted to be able to accommodate the Senator from Kansas on her request.

Mr. NICKLES. For clarification purposes, I would also like to add that it is my understanding that the funds are to be used to study both the cattle trails and the eight cavalry forts in Kansas. The Senator from Kansas is always very restrained in her funding requests, and I thank her for bringing the need for these studies to our attention.

Mrs. KASSEBAUM. I thank the Senators for clarifying this issue, and I yield the floor.

OLYMPIC WHITEWATER EVENTS

Mr. SASSER. Mr. President, the Atlanta Organizing Committee for the 1996 Olympic games has expressed a serious interest in holding all whitewater events on the Ocoee River in Polk County, TN. Because of the river's proximity to Atlanta, and due to the river's challenging rapids, the Ocoee is the most logical place for these events to occur. However, the events can occur only if the Federal Government provides support. The river and its surrounding lands are all managed by the Federal Government. The USDA Forest Service, Cherokee National Forest, and the Tennessee Valley Authority are the principal agencies involved.

I strongly believe that the Forest Service should continue to cooperate with TVA to support the organizing committee, the State of Tennessee, and the government of Polk County in assessing the feasibility of this site and ascertaining what the impacts on the Federal lands would be. The Service and TVA could provide assistance in determining the location and design of temporary and permanent facilities; in obtaining the necessary permits, licenses, or leases; and in ensuring that all laws that protect environmental, historical, or archaeological resources are obeyed.

The whitewater event will affect public resources over a broad geographic area in the Southeast that contains a large amount of Federal land, and the impact of this event will begin far in advance of the Olympic competition in 1996 and last after the awareness and popularity of the Ocoee River and other similar rivers in the Southeast, and a significantly elevated level of use of Federal recreation facilities in the region.

I intend to ask that the Forest Service prepare a report assessing these issues, detailing what is needed to meet the impacts, and the associated costs. This report would address Forest Service and Tennessee Valley Authority lands and facilities within the Ocoee River corridor and lands under the jurisdiction of the Forest Service in Tennessee, North Carolina, and Georgia. The Forest Service should assess the potential effects of the competition on its roads, trails, and recreational facilities; and the opportunities presented and costs associated with interpreting natural resource management in the United States to domestic and foreign visitors. The report should also address the opportunities this event provides for the Forest Service and TVA to contribute to the development of the local economy.

Does the Senator from West Virginia agree that the Forest Service has an important role to play should the Olympic whitewater events be held on the Ocoee River, and that it should take the steps I have outlined above?

Mr. BYRD. Mr. President, I do agree with the Senator from Tennessee that the Forest Service has a vital role to play should the Ocoee River be chosen as the site of the Olympic whitewater events. As he points out, the river and surrounding lands are all managed by the Federal Government, and the Forest Service is one of the principal management agencies.

I understand that the Forest Service and TVA are both already participating in the preliminary planning for these events. The Forest Service should continue to participate, to the extent possible, within its existing budget, with the other parties interested in these events. If additional requirements are needed to deal with this issue, the Forest Service should identify them as well in submitting the information requested by the Senator from Tennessee.

TERRTIORIAL APPROPRIATIONS

Mr. JOHNSTON. Mr. President, there are two questions I have regarding the statement of managers with respect to two items under the appropriations for Territorial and International Affairs, and I would like to ask the chairman for clarification.

Mr. BYRD. I would be pleased to provide any clarification.

Mr. JOHNSTON. First, with respect to the $500,000 provided for the brown tree snake program. There has been a concern raised that this snake infestation problem is multijurisdictional, both geographically and with regard to Federal agencies, and that this complexity has apparently contributed to the Federal Government's inability to develop a comprehensive plan for the snake's eradication. Accordingly, it was my understanding that these funds, with the exception of the $100,000 to be provided to the State of Hawaii, would not be released until a comprehensive control plan had been agreed to by the governments of Guam and Hawaii, and by the departments of the interior and agriculture. I firmly believe that the granting of further funds without a comprehensive multiyear plan to identify and coordinate all of the necessary parts of an eradication plan, will not advance our goal of control. Am I correct that these funds are to be released only for the implementation of such a comprehensive plan?

Mr. BYRD. Yes; it is intended that these funds not be released until a multiyear and coordinated plan has been developed, and for the purpose of initiating that plan.

Mr. JOHNSTON. I thank the Senator for that clarification. Second, with respect to the $1,000,000 for additional studies on Rongelap Atoll. The conference report states that these studies are to be carried out in accordance with the plan recently agreed to by the Republic of the Marshall Islands, the Rongelap Atoll local government, the Department of Energy, and the Department of the Interior. However, it is my understanding that these funds are to be used to implement the Rongelap scientific work plan in accordance with a memorandum of understanding between these four parties. It appears that the plan and the memorandum of understanding may have been inadvertently merged in the understanding of the conferees. A clarification that there are, in fact, two separate documents which will govern the use of these funds is important.

Mr. BYRD. The Senator is correct. The plan has been completed, but the memorandum of understanding is in the process of being developed. It is intended that these funds not be released until the memorandum has been completed. Mr. President, I understand, and would like to add, that the House Appropriations Subcommittee for Interior and Related Agencies concurs with these clarifications.

Mr. JOHNSTON. Mr. President, as chairman of the authorizing committee I have asked the Office of Territorial Affairs for the opportunity to review the brown tree snake control plan and the Rongelap memorandum of understanding prior to the release of funds for either project. Does the distinguished chairman have any objection to this procedure?

Mr. BYRD. No; I have no objection.

Mr. JOHNSTON. I thank the chairman for his clarification and assistance on these items.

INDIAN MUSEUM

Mr. BYRD. Mr. President, I would like to engage Senator NICKLES in a brief colloquy related to funds available to the Smithsonian Institution for the expedited construction of the National Museum of the American Indian in New York. It is my understanding

that the Smithsonian Institution is capable of completing the Indian Museum construction at the Custom House facility so that exhibits commemorating the quincentenary of initial contacts between American Indians and European explorers could be opened less than 1 year from today.

It seems to me that such an expedited schedule would be very timely, and I thank the Senator from Hawaii [Mr. INOUYE] for bringing this matter to my attention. It is my understanding that a total of $1.14 million would be required to accomplish the opening of the quincentenary exhibits in the Custom House. I support the reprogramming of these funds, as appropriate, from the Smithsonian's construction account and the salaries and expenses account.

Would the ranking member of the subcommittee, Mr. NICKLES, join me in directing the Smithsonian to accomplish this reprogramming?

Mr. NICKLES. Mr. President, I join the chairman of the subcommittee in the expectation that the Smithsonian will accomplish this reprogramming quickly so that the exhibits may be opened in October 1992. I understand that this reprogramming will stimulate an additional $250,000 in private contributions for the planned exhibits.

Mr. BYRD. I thank the Senator for his concurrence, and I would hope that we can reach a quick agreement with the House Interior Appropriations Subcommittee on this reprogramming proposal.

INDIAN LITIGATION FUNDING

Mr. MCCAIN. Mr. President, the conference report contains language directing the Bureau of Indian Affairs to provide sufficient funds for the Hopi and Navajo tribes for the 1882 litigation, and for the Hopi, Navajo, and San Juan Southern Paiute Tribes for the 1934 litigation. Such language was added to the report to ensure that the tribes would receive a part of the financial support necessary to resolve such litigation. Given Congress' historical commitment to assist with the substantial litigation costs, and further given the immediacy of the court schedules already established for these cases, do the conferees believe it is essential that funds be released?

Mr. BYRD. Mr. President, the conference agreement includes $2.1 million for attorneys fees to assist the tribes in cases such as these described. The funds should be made available as soon as possible to meet the immediate litigation requirements confronting tribes.

Mr. MCCAIN. I thank the Senator. Mr. President, I ask unanimous consent to print in the RECORD information regarding court schedules relative to these two litigations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE 1934 AND 1881 LITIGATION SCHEDULE

1934 TRIAL

(1) Phase II of the 1934 trial is scheduled to begin March 10, 1992.

(2) Phase I of the 1934 trial is complete. An opinion may be rendered within the next two months, and will shape the issues to be resolved in the Phase II litigation.

1882 CASES

(1) Accounting Case: The JUA accounting case is set for trial April 14, 1992, before the United States District Court for Arizona.

(2) Owelty, Damage, and Use Cases: litigation is pending before the United States District Court for Arizona. All fact discovery closes December 1, 1991. All trial expenses must be named by December 15, 1991. The experts must exchange reports by February 1, 1992. All expert discovery must be completed by March 1, 1992. All motions in limine and the like must be submitted by March 16, 1992. The Local Rule 42c conference is scheduled for May 18, 1992. Sequential trials will begin June 2, 1992.

(3) Rental Cases: A decision from the United States District Court for Arizona in the 1979–1986 rental cases is expected around November 15, 1991. Other rental cases arising during the period 1986–1989 are being briefed and argued before the Department of the Interior.

(4) *Many Beads et al.*, v. *United States:* Litigation is active before the Ninth Circuit Court of Appeals.

(5) New Construction: A hearing date before the United States District Court for Arizona remains to be scheduled.

Mr. RUDMAN. Mr. President, I join my colleague from South Carolina, the chairman of the Commerce-Justice-State subcommittee, in thanking the conferees on the Interior appropriations bill for including several technical corrections to our appropriations act for fiscal year 1992. Senator HOLLINGS has explained these technical corrections, so I will not go into detail on each provision. However, I do want to join him in clarifying the appropriation provided for the National Meteorological Center for a new supercomputer. A total of $15,000,000 is provided for the supercomputer upgrade, of which $9,000,000 is for the first installment on a multiyear lease-purchase agreement. The remaining $6,000,000 is for operation and maintenance costs. At the same time, the funding for AWIPS/NOAAPORT should total $19,778,000.

This clarification is needed due to the fact the National Oceanic and Atmospheric Administration budgeted for operational costs in a procurement line item. This is inappropriate, and should be corrected in next year's budget.

I thank the chairman and ranking member of the Interior Subcommittee for the opportunity to clarify this important item, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise in support of the fiscal year 1992 Interior appropriations conference agreement, and to commend the distinguished Senate appropriations chairman, Senator BYRD, for his outstanding efforts on this bill.

This legislation makes important investments in the preservation of our Nation's natural heritage, through its support of the National Park Service, the U.S. Fish and Wildlife Service, and the Forest Service. It also provides essential support for the National Foundation on the Arts and Humanities and the Smithsonian Institute, and contains money for health and education programs that are vital to Native Americans.

I would like to discuss a number of items involving historic preservation, parks, and open space in my State that are addressed in this bill.

NEW JERSEY URBAN HISTORY INITIATIVE

Mr. President, this legislation contains $7.9 million I requested for the New Jersey urban history initiative, a project that will serve to accentuate the rich history of New Jersey's cities.

From the Revolutionary War to the Industrial Revolution to modern times, New Jersey's cities have played a vital role in the growth of our Nation. Many New Jersey cities contain physical reminders of their rich history. These are sites of such national significance that they have been designated national landmarks or have been placed on the National Register of Historic Places. Unfortunately, though, many of these significant structures have fallen into disrepair.

My New Jersey urban history initiative proposes to rehabilitate historic structures in three New Jersey cities: Paterson, Trenton, and Perth Amboy. These renovations would be made under the Park Service's authority, pursuant to the National Historic Sites Act of 1935, to rehabilitate and maintain nationally significant historic structures.

At my request, the committee has earmarked $4.2 million for the city of Paterson, NJ, my hometown. Paterson holds a special place in history as one of the leading industrial cities of this Nation. The Great Falls in Paterson is the site of the first attempt in the United States to harness the entire power of a major river for industrial purposes.

The Great Falls National Historic District in Paterson contains some of the most important vestiges of our Nation's industrial heritage. Unfortunately, Patterson, which is about to celebrate its bicentennial, has had its share of bad fortune. The Historic District has been ravaged by fires.

The National Park Service, in its 1989 report on damaged and threatened national historic landmarks, described the Great Falls Historic District as suffering "severe physical deterioration" and recommended that the structures be "stabilized, and when a compatible new use is found, rehabilitation should be undertaken."

The raceways, a system of canals which were used to channel water from the Great Falls to the nearby mills, is the unifying thread of the district. The raceways have fallen into severe dis-

repair and must be stabilized and refurbished.

The funding earmarked for Paterson would be used to repair the middle raceways, as well as to make historic streetscape improvements within the district. Funding would also be used for the Park Service to perform a comprehensive assessment of historic structures within the district and to devise an action plan to stabilize and reverse the decline of the area.

Trenton, the capital of New Jersey, is rich in revolutionary and postrevolutionary history. The historic structures in Trenton would benefit enormously from the $1.892 million in Federal funding that the committee included for Trenton as part of my urban history initiative.

For example, the 100-year-old Trenton Battle Monument, which memorializes General Washington's Christmastime victory against the Hessians, is in need of refurbishing. Funding also will be used for improvements along the Delaware and Raritan Canal in downtown Trenton. The canal was one of the Nation's most important commercial transportation routes. During the 1860's and 1870's, it often exceeded the Erie Canal in total tonnage. In addition, the Old Barracks Museum, which is a national landmark, is sorely in need of repairs.

The New Jersey urban history initiative includes $1.808 million for Perth Amboy, which was the capital of prerevoluntionary east New Jersey. The Perth Amboy Train Station was built in 1928. Perth Amboy has always served as a transfer point between local and express trains. The Tottenville Ferry slip structure was built in 1904 and is the last vestige of a long-history of Perth Amboy ferry service. Both of these failing historic structures would be revitalized as part of this project.

In addition, the funding for Perth Amboy will be used to conduct a survey of historic buildings located in the business district along Smith Street, which connects the historic ferry slip to the train station.

With Federal help, we can restore some of these historic buildings and sites, we can renew these areas and recapture an important part of history. I am hopeful that revitalization initiated with these Federal funds will serve as a magnet to attract private investment in these downtown neighborhoods.

I am extremely grateful to the distinguished chairman for his assistance with this project, which is so important to me and the people of my State.

OUTER CONTINENTAL SHELF [OCS] OIL AND GAS MORATORIA

Mr. President, I'd also like to express my support for the bill's provision banning OCS leasing activities on lease sale 145, which stretches from Rhode Island to northern Florida. The Senate bill retains the House report moratoria language, and I am very pleased that the committee chose to include my request for the moratoria in the Senate bill. I am likewise pleased that the conference agreement reflects that important language.

In 1988, then-candidate George Bush visited the New Jersey shore. He called the pollution of our coastal waters and beaches a "national tragedy," and promised to protect the Nation's shores. Yet, in his June 1990 OCS moratoria decision, the President protected only a portion of the Nation's coastline. Although he recommended moratoria for most of the west coast, much of New England and certain areas off western Florida, the President flatly ignored New Jersey and the other Mid and South Atlantic States. That decision effectively discriminates against the Mid and South Atlantic States by saying that other offshore areas are somehow more sensitive and more deserving of protection.

It took the National Academy of Sciences 3 years, and the President's OCS task force another year, just to conclude that the areas placed under moratoria needed further study. And the President's decision called for an additional 6–10 years of study to determine the environmental impacts on these States. How can the administration already have all the answers for New Jersey and the other unprotected States? The answer is, it can't.

Obviously, the President does not believe that these States deserve protection. But the economies of these unprotected States rely heavily on their coastal resources. And spilled oil can have devastating effects on a State's commercial and recreational industries, not to mention the damage it can inflict on its marine and estuarine systems.

The waters off New Jersey are just as precious as those covered by the President's ban: Our beaches deserve equal treatment. Since the June 1990 decision, I have sent several letters to the President, and have met with the Director of the Minerals Management Service. In each instance, I have urged that New Jersey receive the same type of environmental reviews as those States which obtained moratoria. Unfortunately, the MMS is now holding out vast acreage off the eastern seaboard for oil and gas leasing. It's now up to the Congress to remove the prejudice and instill some justice into the OCS planning and leasing processes.

In the wake of the gulf war, the administration's national energy strategy has proposed increasing our domestic production to offset our dependence on foreign oil. And OCS development would play an important role in the administration's energy plan. Yet, even if we developed all the unleased portions of our OCS, it would provide us with less than 1 percent of world oil supplies. The Marine Management Service has estimated that there is less than a month's worth of oil in lease sale 145. These are meager benefits in the face of the potential economic and environmental risks posed to our vulnerable coastal States, and OCS development would do little to affect our reliance on the volatile world oil markets.

Increasing domestic oil production from our ocean waters is a short-term fix to our shortage of oil. The United States simply does not possess large enough reserves—on or offshore—to satisfy this Nation's insatiable appetite for oil. The United States has the highest per capita energy consumption rate in the world. If we truly want to wean ourselves from foreign oil dependence, the answer lies in reducing our use of oil, and increasing our use of alternative fuels and renewable energy—and not in increased domestic oil production from our ocean waters.

I commend the Senate Appropriations Committee for its attention to this very important issue and I am pleased the conference supports the moratoria in the Interior Appropriations bill for outer continental shelf lease sales.

LAND ACQUISITION FOR WILDLIFE REFUGES AND PARKS

Mr. President, this legislation also contains funding for refuge and park land acquisition that is of special significance to my State. New Jersey is the most densely populated and urbanized State in the Nation, but New Jersey also has some beautiful areas that are home to diverse plant and animal life. The fact that New Jersey is so urbanized, makes the preservation of our remaining undeveloped areas that much more important.

The New Jersey coast is an area that feels the pressure of development very acutely. I'm very pleased, therefore, that the conference agreement contains $4 million to continue acquisition of critical properties at the E.B. Forsythe National Wildlife Refuge.

The Forsythe Refuge includes critical wintering habitat for black ducks and Atlantic brant, as well as habitat for the peregrine falcon, blue heron, and the federally listed piping plover. The area also includes the Swan Point Relay, where clams are cleansed by the Reedy Creek's clean waters before being made available to the public, and the area is crucial to New Jersey's clamming industry.

Last year, I worked with the chairman to provide $3.25 million to enable the Fish and Wildlife Service to begin acquisition at Reedy Creek in the Forsythe refuge. Recently, the Fish and Wildlife Service obtained title to two properties with money Congress appropriated last year. I'm very pleased that acquisition has begun, but more funding is needed to continue this important project.

This money will provide a shot in the arm for conservation efforts at Reedy

Creek and Cedar Bonnet Island at the Forsythe Refuge. The Fish and Wildlife Service is proceeding rapidly toward acquiring nearly all the land at Cedar Bonnet Island.

I also want to thank the chairman for his help in having $3 million included in the conference agreement for land acquisition within the Pinelands National Reserve.

Created by Congress in 1978, the Pinelands marked the first application of the national reserve concept. The Pinelands Reserve is comprised of 1.1 million acres of land that spans seven counties, and is characterized by low, dense forests of pine and oak, cedar and hardwood swamps, bogs, marshes, and pitch pine lowlands. The reserve contains 12,000 acres of pigmy forest which is made up of dwarf pine and oak smaller than 11 feet in height. Also, the reserve houses 850 species of plants and 350 species of animals including rare species such as the Pine Barrens tree frog.

Three major rivers run through the reserve. Funding for land acquisition is authorized by Public Law 100-486 and will be matched by New Jersey State funds making a minimum of $6 million available to preserve this unique area.

Last year, the Senate passed my legislation to establish in law the Wallkill National Wildlife Refuge, and later Congress appropriated funds to begin acquisition there. The conference agreement before us contains $500,000 to continue land acquisition at the Wallkill Refuge. That acquisition is another important step in the conservation of ecologically significant land in New Jersey.

The Wallkill River and its adjacent lands comprise one of the last high-quality waterfowl concentration areas in northwestern New Jersey, and is home to a diversity of wildlife including 16 State-listed endangered species.

Mr. President, I would also like to point out that, at my request, the conference agreement contains almost $1.5 million for land acquisition and waste cleanup at the Great Swamp National Wildlife Refuge. This refuge, located 25 miles west of New York City, is under heavy development pressure. The acquisition of land provided for in the bill will prevent encroachment from residential development that is rapidly destroying valuable habitat, degrading water quality, and threatening the ecological integrity of the swamp.

The conference agreement also provides $3 million for land acquisition at the Cape May National Wildlife Refuge. This refuge is divided into two sections, the Delaware Bay Division and the Cedar Swamp Division, and includes land considered among the Atlantic flyway's most important staging and wintering areas during spring and fall migration. The refuge also contains habitats important for at least five plant species being considered for Federal threatened or endangered listing.

Overall, this conference agreement contains $12 million for land acquisition in New Jersey's refuges, and I'm extremely pleased that we are taking these important steps to protect and preserve these environmental treasures and open spaces for ourselves and for our children.

GATEWAY NATIONAL RECREATION AREA

Mr. President, I also want to point out that the conference agreement contains over $2 million for Gateway National Recreation Area's Sandy Hook unit. Gateway quickly became one of the Nation's most popular national parks, and each year millions of people travel to New Jersey to take advantage of Sandy Hook's acres of barrier beaches, bays, lighthouse, and historical forts.

With this money that I requested, the Park Service can now begin upgrading its sewage disposal system and improving maintenance of the beaches to keep them safe and clean for Sandy Hook's numerous visitors.

OHMSETT AND OILSPILL RESEARCH

I'm pleased, Mr. President, that the conference agreement restores funding deleted by the House of Representatives for the Minerals Management Service's Oil Spill Response Program. This conference agreement includes funding for the oil and hazardous materials simulated environmental test tank, or OHMSETT, facility in Leonardo, NJ. I had written to the distinguished chairman earlier in July requesting his help in restoring these funds, because there is an urgent need to find new and better ways to respond to oilspills.

OHMSETT is a unique installation for testing offshore oilspill response equipment and procedures. Although the OHMSETT facility was closed in 1988, MMS plans to reopen it later this year. MMS intends to use OHMSETT for a variety of purposes, including evaluation of innovative oil spill treatment and detection technologies.

The Department of Interior, the Coast Guard, and the Environmental Protection Agency have stated publicly that enhancing Federal research programs on spill response and prevention technology is essential. The oilspills in the Arthur Kill in New Jersey, and more recently, spills in the Persian Gulf resulting from Iraqi environmental terrorism, have highlighted the need to find more effective ways to respond to these environmental disasters.

The OHMSETT facility is a critical resource for spill research efforts, and I'm pleased that the committee has fully funded MMS Oilspill Response Program.

ABANDONED MINES

Finally, Mr. President, Oxford Township and High Bridge Borough are two communities in my State that face a grave situation. Both of these New Jersey towns have abandoned mine shafts running underneath them. In both towns, many of these shafts have begun to collapse, or in some cases have already collapsed, causing damage to property and posing a potential safety hazard. Also, many residents have had difficulty in securing insurance since the incidents.

These towns need the financial and technical help of Federal Government, and I thank the chairman for his work to ensure that this conference agreement provided $75,000 for remediation efforts in Oxford Township and $75,000 for work in High Bridge.

Mr. President, I would again like to commend the distinguished chairman for his outstanding work on this bill and for his cooperation, assistance, and attention to the needs of the State of New Jersey. I would also like to commend the chairman's chief clerk, Charles Estes, for his very helpful and competent assistance. Finally, I would like to thank Rusty Mathews and Sue Massica for their assistance.

I urge my colleagues to support this conference agreement.

Mr. BYRD. Mr. President, I wish to thank the majority leader and the Republican leader, the ranking member, Mr. NICKLES, and all Senators for the excellent cooperation and help that we have received in connection with this bill and the conference report.

I also wish to thank all Senators on both sides of the aisle who supported the tabling motion earlier today. And in saying that, I wish to extend to Mr. HELMS my thanks for the courtesies he always renders in matters of this kind. I think he worked hard. He had a difficult position to uphold. It took courage, but he is not lacking in courage. As I indicated earlier, there are many of us who voted to table his amendment today who voted in the first instance in support of his amendment because, in substance, we agree to it. There were 68 votes in support of that amendment earlier this year, 28 votes in opposition. So it took a lot of effort on the part of a lot of Senators to turn that many votes around. I thank the Chair and yield the floor.

Mr. NICKLES. Mr. President, I wish to compliment the Senator from West Virginia, the chairman of this subcommittee and chairman of the full committee, for his outstanding work in a very difficult, long, tedious, cumbersome process in marking up this bill. We had thousands of requests and we also had thousands of items that were in disagreement that we had to negotiate with the House.

I also compliment the staff on both sides. I think they did an outstanding job in putting the bill together. I might tell my colleagues there is an increase in outlays by .95 percent, less than 1 percent in outlay increase, and a 1.12

percent increase in budget authority. That is lower than most any other bill we have, with the exception of the Department of Defense. That was not easy, given the number of requests.

I also compliment the Senator from North Carolina. He did not win on his amendment today, but it was not because he did not show the persistence of a giant. This is not an easy issue, to say the least, and I compliment him for his leadership. I thank again the chairman for his patience because he has shown the patience of Job in a very difficult ordeal.

I think we have a good bill. I am optimistic that the President will sign it, and I think it deserves to be signed. I look forward to seeing this particular bill conclude.

Mr. BYRD. Mr. President, if the distinguished Senator will yield.

Mr. NICKLES. I will be happy to.

Mr. BYRD. Mr. President, his reference to staff reminds me that I should extend my gratitude to the members of the staff and I will name the various staff members in the RECORD.

First, Mr. President, I wish to thank my chief of staff, Barbara Videnieks. I thank the majority staff of the full committee: Jim English, Mary Dewald, and Anita Skadden; the minority staff of the full committee, Keith Kennedy; the majority staff of the Interior Subcommittee: Sue Masica, Rusty Mathews, Ellen Donaldson, Carla Burzyk, and Charlie Estes; and the minority staff of the subcommittee: Cherie Cooper and Ginny James.

I call attention finally, once again to the fact that this bill has sustained a 1.26-percent cut across the board in order to make it conform to the budget requirements.

NATIONAL ENERGY POLICY ACT

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, on tomorrow, we will have a vote on cloture on the question of the motion to take up.

I was just talking to my friend from Ohio about the question of whether there is any advantage to our side of the aisle by being able to work through the first 14 titles of this bill, saving the question of cloture on ANWR and CAFE to the end.

The reason I asked my friend from Ohio is because he is one of the preeminent experts in this body on the use of the rules and on the use of the cloture. So I would like to engage in a colloquy, keeping my right to the floor, with the Senator from Ohio, if he would like to discuss that question, and see if he can educate me on what advantage there is that our side would gain by that.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I would be very happy always to engage in a colloquy with my friend from Louisiana. But I am frank to say that I believe the Senator from Montana, and the Senator from Colorado, and certain other Senators have taken a more leadership role in connection with this subject. I feel I am playing a supporting part and will try to be helpful to them. But with respect to the floor strategy, I would like to suggest that my good friend hold that question unless the Senator from Colorado desires to respond to it.

Mr. WIRTH. I was trying to gain recognition for exactly that purpose because I think it is very important to explain the parliamentary situation. If the Senator from Ohio yields the floor, I would ask for recognition.

Mr. METZENBAUM. I yield the floor with the understanding that the Senator from Colorado be recognized.

The PRESIDING OFFICER. The Senator from Louisiana retains the floor. The Senator from Louisiana yielded to the Senator from Ohio.

Mr. JOHNSTON. Mr. President, I do not wish to yield the floor, but I would be delighted to engage in a colloquy with the Senator from Colorado on the subject.

Mr. WIRTH. Fine, if the Senator has a question. The Senator from Colorado wants to be recognized in his own right, but I would be happy to engage in any colloquy that my distinguished chairman would like.

Mr. JOHNSTON. Yes. Mr. President, I want to reason together on this bill because the Senator from Colorado has a lot invested in this bill, as I do. I would like to see if we cannot work our will on such parts of the bill as we can agree to. I think the Senator from Colorado might have an idea that our side, that is, the pro-ANWR side, gains some advantage on a later ANWR cloture, or cloture vote on ANWR by considering the first part of the bill. It seems to me that that is not so.

I do not seek to gain an advantage. What I really seek to do is to agree on what we can agree to to work our will on energy policy because otherwise the alternative is that this whole bill goes down. The problem is—let us say the whole bill goes down, or let us say the Senator from Colorado and his group are successful either on the filibuster on the motion to take up or on a later filibuster on the bill itself and the whole bill comes down. Then what do we do? Everybody says then we go off in a room somewhere and come back with a bill.

Well, let us say we go back to the Energy Committee and we come back with a bill that has 14 parts and does not include ANWR and CAFE. Then we come to the floor and we work our way through 14 parts, and then someone gets up, as they would be sure to do, and says, Mr. President, I move to add at the end of the bill ANWR, and they put on this title. Then what happens? Is there a filibuster from the Senator's side again?

In other words, what I am saying is what is the Senator from Colorado seeking and how would he go about seeking it?

Mr. WIRTH. I would like to be able to, on my own time, lay out where we are, but I will be happy to do part of this in response to the distinguished chairman of the Energy Committee since he controls the floor at this point.

The Senate, as the distinguished senior Senator from Louisiana knows, was established in a compromise at the time of the Constitutional Convention. The Senate was established in order to protect small States and in order to protect interests in this country so that they would not get overwhelmed by the majority. That is one fundamental rationale for why the Senate is here. This institution is meant to protect those kinds of interests against the abuse of some majority. That is why we have in the Senate the capacity to filibuster.

Mr. JOHNSTON. I do not disagree with the Senator's right to filibuster.

Mr. WIRTH. If the Senator wants me to explain what our position is, I will be happy to do so. I think that is only fair. Otherwise, the Senator can continue and I will then lay out our case in our own time. That is only fair. The Senator asked me what our position was. I was trying to explain it. But he controls the time.

Mr. JOHNSTON. I know, Mr. President. I have been asked to control the time until it is worked out as to when we set the vote tomorrow.

Mr. WIRTH. The Senator can yield the floor and I will be recognized and let people work things out, and so on.

Mr. JOHNSTON. In other words, the Senator is saying that a repartee between us on the question——

Mr. WIRTH. No. I was trying to explain what our position was. The Senator controls the floor and the Senator can interrupt me at any time. The Senator controls the time. I have no control over the time until he yields the floor.

I would be happy to explain our position, which is a very clear, rational position related to the rights of Senators, what this institution is all about, and our rights to filibuster.

Let me explain in a very simple way. There was a piece of legislation that came to the floor a year ago on corporate average fuel economy. There were many of us who were advocates of that piece of legislation, and that piece

of legislation was stopped by a filibuster. We had a majority of the votes to increase fuel economy for automobiles, and that piece of legislation was stopped by a filibuster, not by 51 votes, not by 50 votes, but at that time by 43 votes.

Now, that is one of the rights of Senators and the distinguished Senator from Louisiana was one of the minority who stopped the corporate average fuel economy legislation. That is perfectly within the Senator's rights to do so, and perfectly within the rights of those who oppose CAFE standards to filibuster that bill. We were not able to get 60 votes to break a filibuster, so we lost. That is one of the operating principles of this institution.

Now, I may not agree with those rules. I think they are quite archaic, but we have them. But as long as we have them we all ought to be able to use those rules.

Now, because the distinguished chairman of the Energy Committee has brought up this broad bill that includes the Arctic National Wildlife Refuge, there is no way that I or others who oppose the Arctic can filibuster bringing up the Arctic. It is part of this broader bill.

What we have offered to the distinguished Senator from Louisiana is to let us get on with an energy bill, put the CAFE proposal out as a separate bill, as it was done before, and put the Arctic Refuge proposal out as a separate bill. That gives us our right to look at the Arctic Refuge separately and to filibuster that. When it is part of the bill, we cannot filibuster the Arctic section of the bill by itself. It is part of the overall bill. Since we have been denied our right to filibuster the Arctic section of the bill, the only choice that the Senator, the distinguished chairman, has left to us is to filibuster the whole bill. That is the only choice the Senator has left us.

Mr. JOHNSTON. Mr. President, will the Senator answer me this? How would he have me do this? Let us say I wanted to do it. And I have told him that I would not and could not. But how would he mechanically have me perform this act of putting these out as separate bills?

Mr. WIRTH. The Senator is very familiar with the fact that under rule XIV it is possible to bring the Arctic Refuge issue directly to the floor. The Senator is familiar with that. The Arctic comes up as a separate bill on the floor, and then the Senate works its will separately on the Arctic.

Mr. JOHNSTON. Let us say the first amendment is the text of S. 1220.

Mr. WIRTH. Excuse me.

Mr. JOHNSTON. Let us say the first amendment is the text of the bill S. 1220.

Mr. WIRTH. The first amendment to the Arctic could be the text of S. 1220. But if you bring the Arctic up, we can filibuster bringing up the Arctic. That is our right. The Senator did exactly that when corporate average fuel economy legislation was brought up. The Senator supported the filibuster of that and did not allow that to be done. The Senator filibustered, and it did die.

Why does the Senator from Louisiana have the right to do that with corporate average fuel economy and we do not have the right to do that with the Arctic? What is good for the goose is good for the gander.

Mr. JOHNSTON. I am only trying to reason with the Senator, reason together with the Senator. All right. So we bring up the Arctic as a separate bill, and the Senator is successful in filibustering of the Arctic. So let us lay it aside. Then what would we do, what is the next step? We have no energy policy. What is the next step?

Mr. WIRTH. I think that rational individuals would say we want to get an energy policy and we would do precisely what was done on the Clean Air Act. I will give the Senator another example.

The Environment and Public Works Committee worked through a very ambitious Clean Air Act, and brought it to the floor of the U.S. Senate, and the distinguished minority leader led a threatened filibuster against the Clean Air Act. So the Clean Air Act never came up. That was not because the distinguished Republican leader was opposed to the Clean Air Act. He was not. I know he was not opposed to the Clean Air Act. He just did not happen to like the structure of the Clean Air Act as it came out of the Energy and Environment and Public Works Committees.

Consequently, he threatened to filibuster that bill. The Clean Air Act could not come up. Everybody wanted to get a Clean Air Act. Everybody wants to get an energy bill. He just was able then to do it closer to his terms.

Consequently, the distinguished Republican leader, and the distinguished Democratic leader went back into the majority leader's office with Senator BAUCUS, and they hammered out a different piece of legislation that was more acceptable for everybody in the Senate. Those are the procedures that we follow here.

We did that with the Clean Air Act, and out of it came a pretty darned good piece of legislation, not as strong as I would like to have seen it, but it accommodated more of the interests of people on the other side of the aisle. That is the way this institution works. They have their rights; we want to use our rights.

Mr. JOHNSTON. I understand that history very well. I am not asking the Senator to render his rights.

Mr. WIRTH. That is what happened. We have been forced to surrender our right to use a particular set of mechanisms to kill one part of the bill we think is fundamentally flawed and wrong.

Mr. JOHNSTON. I understand that. We go off in this back room, the front room, or the Energy Committee, EPW Committee and we come back with a bill, and we say this is the bill. This is a great bill now. It does not have ANWR. It does not have PUHCA reform. It does not have nuclear policy, natural gas.

Mr. WIRTH. I do not know where the Senator would get such a bill as that. He might do that. I cannot imagine that is an energy bill.

Mr. JOHNSTON. Whatever it is, let us define it as one that suits whoever.

Mr. WIRTH. We have suggested exactly what this ought to be, in the 14 titles of the bill, exclusive of CAFE and the Arctic. Let us put that on the floor as a bill. Then if the Senator from Alaska or somebody else wants to add the Arctic to that, they can bring that up, and then we will filibuster that, and use the same weapon that the distinguished chairman used on the CAFE bill. That is perfectly all right.

Mr. JOHNSTON. How do we ever get to energy policy?

Mr. WIRTH. Of course, we get the whole bill done. The Senator knows as well as I do how many times there have been efforts to filibuster particular pieces of legislation, and after a certain period of time people realize that they cannot break the filibuster. Then the particular item causing the filibuster gets dropped. You go on.

I have had that happen to me on a number of occasions related to issues of choice and reproductive freedom. We have 57 or 58 votes in the U.S. Senate in favor of issues of choice. But people on the other side filibuster amendments or bills on these issues and we have not been able to get them passed. That is the way this institution works. Frustrating and archaic as it may be, that is the way the institution works.

I have not stood up and complained about that when I lost on this subject of position of choice. We have worked to get 60 votes. We have not done it yet.

Mr. JOHNSTON. Would the Senator tell me what the difference is between the place we are in now where we consider the 14 titles, and then have an amendment with a separate filibuster on ANWR, as opposed to going to some committee or whatever and coming back with a bill that has 14 titles and having an amendment on ANWR to filibuster? It is exactly the same thing.

Mr. WIRTH It is very simple. The bill in front of us does not have 14 titles. It has 16. One title is on the Arctic Refuge and one title is on CAFE. That is where we are. I cannot remove the Arctic title of the bill with 41 votes. I am deprived of my ability to filibuster the Arctic. That is very simple. Those are the rules of the Senate.

I believe that the Senator from Colorado and others have a perfect right to use the filibuster just as the distin-

guished chairman of the Energy Committee used the filibuster to help kill CAFE, just as others have used to help to kill various amendments related to reproductive freedom. Those are all examples of how this institution works.

The Senator has been around here a lot longer than I have. He is a lot more subtle in how this institution works. He knows that. I know that. There is no mystery.

Mr. JOHNSTON. I know enough to know that 41 votes kills any bill and any amendment, and if you get 41 votes to kill this bill, you have 41 votes to kill the next bill, and all you would be doing is putting this off until next year.

Mr. WIRTH. Wait a minute. Who is saying he wants to kill the next bill? We have said to the Senator—if the Senator would let me continue—we have said over and over again we would like to see an energy policy. We believe that a fair way of going about doing this, one that is fair to everybody, is to have a 14 title bill that comes out separately; a bill on the Arctic Refuge separately, and a bill on CAFE separately. All of the elements of an energy policy are there. We then have the ability to filibuster the Arctic. Those who are opposed to CAFE have the ability to filibuster CAFE

Those are the two large and contentious issues. We try those. If we win, fine; if we do not win, fine. We get them behind us and go on with a separate energy policy.

The Senator was saying, the whole bill falls. Why is that? The House is doing their energy bill separately from CAFE from the Arctic. Why can we not?

Mr. JOHNSTON. The whole bill falls because somebody offers ANWR and you filibuster and you have 41 votes. That is why.

Mr. WIRTH. But ANWR, the Arctic, is already in the bill. The bill that the Senator has on the floor, and with 41 votes I cannot remove the Arctic from the bill. It takes 51, 50 or 51 votes to remove the Arctic from the bill. I have rights in the Senate to use the weapon of 41 votes. I plan to do everything I can to use that right.

Mr. CONRAD. Will the Senator yield?

Mr. WIRTH. I do not have the floor. I wish I did.

Mr. JOHNSTON. I yield.

Mr. CONRAD. I thank the Chair.

I would just like to know—I must say when I listen to my good friend from Colorado who I have deep respect for, talk about being denied his rights, the question that comes to this Senator's mind is why did the Senator from Colorado vote to report this bill to the floor out of the committee?

The Senator from Colorado knows the rules of the Senate. The Senator from Colorado knows that we do not have an equivalent situation to CAFE because in this situation we have a multititle bill. We have multiple subjects being addressed.

I have heard the discussion about rights being denied, but I know my good friend voted for this bill out of committee to report it to the floor and he must have known that we would be in precisely this posture when that occurred.

Mr. WIRTH. The Senator from Louisiana has the floor.

Mr. JOHNSTON. Mr. President, I have the floor, but I will keep the floor and yield to the Senator from Colorado for the purpose of answering the question.

Mr. WIRTH. I appreciate that. The Senator from North Dakota knows full well that the Senator from Colorado wrote a number of the titles of this bill with the assistance of the chairman. We worked very closely together on a lot of those 14 titles. I think much of that makes very good sense.

I made very clear throughout the history of energy legislation my feelings about the Arctic. I pointed out very clearly in the RECORD when we voted on this that I would do everything I could on the floor to knock the Arctic out of the bill, but that I believed that it was important for us to get on with energy policy. The Senator knows that. I do not believe it is really particularly useful for us to sort of raise why did you do this, why did you do that? My explanation was very clear then. The Senator knows that.

Mr. JOHNSTON. If I may reclaim the floor in order to yield to the majority leader.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have discussed with the distinguished Republican leader, with the managers of the bill, with several Senators, who are in opposition to the bill, the best way to proceed on this matter. And I am, therefore, shortly going to propound a unanimous-consent agreement which would set the vote on the cloture motion on the motion to proceed at 10 a.m. tomorrow morning.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I now ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Friday, November 1; that following the prayer, the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that the time between 9 a.m. and 10 a.m. be for debate on the motion to proceed to S. 1220, with the time equally divided and controlled between Senators JOHNSTON and BAUCUS.

I further ask unanimous consent that the vote on cloture on the motion to proceed to S. 1220 occur at 10 a.m., and that the mandatory live quorum be waived.

The PRESIDING OFFICER (Mr. WELLSTONE). Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, therefore, the vote will occur precisely at 10 a.m. tomorrow. There will be an hour of debate prior to the vote tomorrow. That will be the only rollcall vote tomorrow, and the next rollcall vote will be on Tuesday, no earlier than 2:15 p.m., no later than 6 p.m., on the Gates nomination.

The Senate will remain in session this evening to continue debate on this matter for as long as any Senator wishes to engage in such debate. Tomorrow, after the cloture vote, if any Senator wishes to address this subject, the Senate will be in session for that purpose as well.

I thank my colleagues for their cooperation, and Senator BAUCUS, particularly, for his cooperation on this matter, as well as the distinguished Republican leader, and all of our colleagues.

The Senator from Louisiana had the floor, which he graciously yielded to me. I yield back to him.

Mr. JOHNSTON. Mr. President, I have had enough of the floor. I want to give my colleagues a chance to speak.

Mr. WIRTH. Mr. President, I want to follow up on one thing the Senator said earlier. We got into a lot of discussion. The Senator said earlier, about 20 minutes or an hour ago, that he did not think that his side could get 60 votes on behalf of the Arctic. I happen to agree that he cannot get 60 votes. So the question I ask is that since that is the case, why do we not just put the Arctic out there, have that vote, let everybody see what the situation is.

The Senator did his very best to get the Arctic refuge opened to oil drilling. You get the rest of your bill and not the Arctic, and we can move on to the energy policy without the Arctic in it.

Mr. JOHNSTON. The Senator from Colorado knows he has a right to offer a motion to strike.

Mr. WIRTH. The Senator is denying me the right to filibuster, and we are back in the same situation. By the way this process has been set up, it has denied that right to those of us who would like to have the right to filibuster this part of the bill. Therefore, we have no other choice but to filibuster the whole bill and to make it as difficult as possible to bring up the bill. That seems to me to be a relatively useless exercise, an enormous waste of time, but the Senator gives us no other choice. We have offered a whole variety of alternatives, with no answer to any of them.

Mr. JOHNSTON. I submit to my friend that he can move to strike ANWAR. If he is successful, it is stricken. If he is not successful, he can filibuster.

Mr. President, what the Senator is really saying is he does not want the Senator to come out here and vote on ANWAR or any other part of this bill.

Mr. WIRTH. That is absolutely not what I am saying. The Senator knows that. The Senator controls the floor. I would be happy to respond, if I might.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. JOHNSTON. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have waited here since 1 or 1:30 today to speak, and I have no desire to speak at this hour, because it is late. Each side has one-half hour between 9 and 10 tomorrow. The manager on this side has indicated he has no objection to my having 10 minutes. I would like to have 10 minutes at 9:30 a.m. tomorrow morning to speak in opposition to the bill.

Mr. BAUCUS. Mr. President, I would encourage the Senator from Ohio to give us a little flexibility tomorrow. He has asked for 10 minutes, and it is my intention to give the Senator from Ohio 10 minutes tomorrow. But I would rather we not lock in a time. I think that all of the Senators would be in a little better position if we debate tomorrow in the usual form, with times being equally divided, and we work it out.

Mr. METZENBAUM. If I have the assurance that I will have the 10 minutes, because I have been patient all day.

Mr. BAUCUS. Yes.

Mr. JOHNSTON. It is my intention to yield the floor, unless there is a question for me.

Mr. CONRAD. Mr. President, I ask if Senator JOHNSTON will yield for a question.

Mr. JOHNSTON. Yes.

Mr. CONRAD. We have heard it repeatedly stated on the floor today that Senators have been denied their rights. Is it not true that the bill coming out of committee, with 16 titles, has come to the floor in the usual form, and that no Senator has been denied their rights? The Senators have an opportunity to filibuster this bill, and that is precisely what is occurring. There is a filibuster, because of strongly held feelings, which I would be quick to acknowledge that the Senator from Colorado expressed in the committee. But is it not the case that this bill has come to the floor in the usual form, and no one has been denied their rights; is that not the case?

Mr. JOHNSTON. That is absolutely correct. All I am saying is, let us consider the bill. It is comprehensive, with 16 titles; it is a balanced, I believe, effective national energy strategy. You may not like the chocolate part. You may like the vanilla. Let us see if we can put together different parts on which we can come to consensus. If we get hung up on something and cannot get past the 60-vote barrier, then we will make our decision to drop that or not, or maybe to bring the whole bill down. But the alternative we are faced with is to bring this whole bill down and not to be able to bring out anything else, because ANWR comes back on anything else, and there goes the filibuster again, and that bill is brought down ad infinitum. That is what has happened up here for 19 years.

I am saying, let us see what parts we can agree to of an energy policy, and if we cannot, that is fine. If the Senator wants to consider ANWR in isolation, make a motion to strike. If you are successful, it is stricken. If you are not successful, then you start your filibuster. How does that surrender any rights? You have every right in the world. What the Senator does not want to do is let Senators vote on ANWR. That is what this is all about.

Mr. CONRAD. Further, if the Senator will yield, let me say that this Senator has voted against ANWR three times. I voted against it, because I do not think it should be done, unless there is a comprehensive bill. My definition is that a substantial increase in fuel efficiency should be part of it. If it is not, I might vote against ANWR again.

I must say that this Senator finds it hard to see how any Senator has been denied their rights, and I fear that what is being sent out as a message is that somehow through chicanery, or through some unfair tactic, people have been denied rights around here.

I might wind up voting with the Senator from Colorado. I might wind up voting with him. But I really do not see how anybody has been denied their rights.

I thank the Chair.

Mr. JOHNSTON. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. WIRTH. Mr. President, we have had a great deal of procedural discussion over the last hour, and I think it is very useful for those who are not familiar with how the U.S. Senate operates, why the filibuster existed, and I attempted to explain that earlier. I think enough has been said about that.

There are many of us who feel very, very strongly about the addition of the Arctic National Wildlife Refuge to the energy bill, and I want to speak about that very briefly in just a few minutes. There are others with whom I disagree who feel strongly that we should not corporate average fuel economy to the legislation. The two distinguished Senators from Michigan and others feel very, very strongly that is the wrong thing for us to do.

Those two issues, the Arctic National Wildlife Refuge and the so-called CAFE standards, are two enormously contentious issues. Earlier, there was an attempt to bring up CAFE, the corporate average fuel economy, as a separate bill. That was filibustered. CAFE did not win. We would like to have the same right in dealing with the other very contentious issue of the Arctic National Wildlife Refuge.

I have made that point over and over and over again.

Since we do not, under these procedures, have the ability to filibuster the Arctic separately, the only choice left to us is to filibuster the whole bill. You say, OK, what happens if you filibuster the whole bill? What I think is going to happen is that this is going to go on and on and on, and ultimately the Senate is going to get up against Thanksgiving. Before that, we are going to get up against the banking bill, which we have to get to the floor, and we will go no further on the energy bill for this year.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. WIRTH. If the Senator will let me finish then I will be happy to yield. I appreciate the interest and work the distinguished Senator from Wyoming has done on this legislation.

We will make it very uncomfortable. What is going to happen will make it uncomfortable to continue on the energy bill for a period of time. We have that right. That happens in this institution, and happens on a steady basis. We get up toward Thanksgiving and get up toward the banking bill coming up, and the time will come when we have to act on the banking bill. We have to act on the bank insurance fund. That has to be done, and the energy bill, quite inevitably, as I see it—and I have not talked to anybody else about this—but the energy bill, quite out of necessity, is going to be taken off of the floor. We then go on to the banking bill, and what other areas of must-do business which has to be done.

So we have no energy bill. We come back in January or February, whatever it may be, we come back at a later date and start working again on an energy bill.

I would suggest—and I have made this suggestion to the majority leader; I have made this suggestion to the distinguished Senator from Louisiana—that it is a much, much better use of our time and energy, if we take 14 sections of this bill, and get that done. That would have been done, by the way, a long time ago, had the Arctic Refuge proposal not been in this bill.

The only thing that is holding up the consideration of this bill is the inclusion of provisions opening the Arctic National Wildlife Refuge to redevelopment. Otherwise, this bill would have been on this floor weeks ago, if not months ago. We would have worked our way through it in some of the duller days of September. We would have had this bill done and sent over to the House, without the Arctic in it.

But the choice was made, let us keep the Arctic refuge proposal in it. There-

fore, it has not been brought up. and now that it is up, it is going to cause an enormous amount of furor and is going to take use even more time. That does not seem to me to be a very rational use of time.

Let us go on and do an energy bill that does not have those two contentious titles in its, and deal with them separately, work the will of the Senate separately on those two bills. It seems to me that not only protects all Members in here, but gets us the rest of the energy bill.

Then the argument was made that just having the 14 titles alone will not do the job. What do you mean, will not do the job? If we have an aggressive piece of legislation that has in it alternative fuels, alternative fuel vehicles, a very aggressive conservation program, changes in the regulatory structure, over electric utilities and nuclear power, that will not do a good part of the job? A lot of titles in this bill are very important. There are many of us who believe that they point us toward an alternative path which is exactly the direction in which we ought to go.

If we continue this mad dependence on oil, we may, if the people are successful in drilling in the Arctic refuge, add a few more years to our oil dependence. Two hundred days, by the way; we are going to prolong the agony of shifting away from oil economy for 200 more days. What better time than to do it now and to make the shift, make the change, which I believe we all know this country has to do.

To what do we change? The Senator from Colorado believes that one of the most important and promising transitional fuels is natural gas, which we have in this country in great abundance. We have an enormous amount of natural gas in the United States. And what we ought to be doing is everything that we can to increase our use of this abundant, cheap, clean, domestic fuel as a bridge fuel between now and sometime maybe in the middle of the next century, when we are into a nonfossil fuel economy. That, plus conservation, plus looking at electric vehicles, and enhanced recovery of our traditional sources of oil will get us through this period of time. It is a policy for the future.

But the Senator from Colorado also believes that if we continue the old way of doing business, go drill in the Arctic, add 200 more days, we are just putting off the changes that we are going to have to do anyway. This is a perfect chance for us to make that change. On that there is disagreement. I understand that. I believe that very strongly; I believe that we ought to be looking at the future in a very different way. Let us not do business as usual; let us change. We have to change. We had 550,000 young men and women in the Persian Gulf because of our refusal to change. Let us change. Let us not expose ourselves to that again.

If we drill in the Arctic, we just expose ourselves 200 days from now rather than today. That does not seem to be the kind of long-term vision that we all ought to be having. That is the argument on the Arctic, by itself, Mr. President.

The procedural issue is a complicated one, but a relatively simple one. What I believe and my colleagues believe, and we made this offer, is that let us not get into this prolonged hassle. Let us put a 14-title bill out there; put a separate Arctic bill out there, and a separate CAFE bill out there.

We can get that 14-title bill through here in a matter of days and send it over to the House. We can come back and deal with the Arctic refuge, or we can deal with the Arctic first. We can show that you cannot break a filibuster on the Arctic, and it goes away. That is the position that we think is the appropriate way to do this, and we are fully within our rights to do it that way.

Final point: Let me go back again to the Clean Air Act. There are many here who worked mightily on the Clean Air Act. The jurisdiction for the Clean Air Act is found in the Environment and Public Works Committee. The Environment and Public Works Committee reported out a very aggressive clean air bill, not dissimilar from the one initially proposed by President Bush in the summer of 1989. That bill came out of the Environment and Public Works Committee and was sent to the floor.

When the distinguished Senator from Montana attempted to bring up the clean air bill, there was threat of filibuster. In essence, the Clean Air Act was filibustered. The distinguished Senator from Montana was not able to bring up the Clean Air Act because he knew there were 41 people who were opposed to the Clean Air Act as reported by the committee.

As a consequence, the clean air bill did not go anywhere. It was taken off the floor, sent back into the majority leader's office, and a different agreement got hammered out that was more acceptable to everybody.

That is precisely what we can do in this situation. We can hammer out a procedure. We do not even have to get into the complexities of the substance of the energy bill. We can just hammer out a procedure that is agreeable to everybody and get onto this. Otherwise, we are going to be here and be here and be here. I do not think that is a very productive way to operate. But that is what each of us can do under the rules of the U.S. Senate, and I plan to do that.

Mr. President, I appreciate the comments. The distinguished Senator from Wyoming had asked me to yield, and I would be happy to yield.

Mr. WALLOP. Mr. President, I ask the Senator to yield just for a question. He said the only time you can have a filibuster on the Arctic refuge is on a motion to proceed to the bill. You can filibuster it when you get to that section and title.

Mr. WIRTH. That is exactly the point.

Mr. WALLOP. But that is not what the Senator said; implying, therefore, that he will not filibuster it should he lose.

Mr. WIRTH. Mr. President, I reclaim the floor. The Senator was not here for the earlier discussion with the Senator from Louisiana where we went through this at great length. To remove the section on the Arctic Refuge from the bill requires 50 or 51 votes or a majority. I may have those votes, you may have those votes. None of us knows. But I have the right to do everything I can so we do not get to that point.

The only suggestion I am making is, let us take that out and deal with it separately and get on with the rest of the bill. The rhetoric that says we must have this in this energy bill or everything falls apart, and so on, is simply inaccurate. The House is doing its bill without an Arctic National Wildlife Refuge in it. We can do our bill that way. We can do a very good, comprehensive bill, as a matter of fact a more rational bill, without the Arctic in it. That is a point to be made.

I think we have been around this circle a lot of times. I greatly appreciate my colleagues' understanding on this and forbearance as we explain this. The distinguished Senator from Louisiana and I went back and forth on this, and I suspect the record is more than replete with our procedures and our rights under those procedures.

Mr. President, I thank you very much and I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to say to anyone else that wants to speak, I really will not speak long. I did not have an opportunity earlier this morning because I was tied up in other matters, and I feel rather strongly about this, so I thought I would speak a bit tonight.

Mr. President, it is really ironic that some of the very same people who are tonight saying no, no, no, we just will not let you proceed, are the same people that a few months ago were, with the same vigor, saying to the President of the United States, "You have no domestic policy." What domestic policy should we have? And right at the top of the list was we need an energy policy.

But you see what is wrong, Mr. President, is that the energy bill produced by the Energy Committee, 17 votes in favor, 3 against—and I know the occupant of the Chair was 1 of the 3. Nonetheless, 17 to 3 by a major committee of the U.S. Senate, and guess what? "We want an energy policy, but it is

not ours, so you will not even vote on it."

You know, of late, people have said that the Americans are kind of disgusted with the Congress, sort of upset with the Congress. Well, now, if the leadership will let this go on, instead of for two votes, if they will let those who want to deny this bill an opportunity to even breathe, let that happen for about 2 weeks and you will see that the ire of the American people will be on those who are saying, yes, to an energy bill, but, no, unless it is ours. Those are the people that the Americans will say, "What is wrong with you?"

And some will stand up and say, "I want to save the Arctic wilderness." Do you know the people will know by then what the Arctic wilderness issue is all about, and the overwhelming majority will say, "Speak your piece"—those who want to save it, not let one ounce of oil be drilled for in that wilderness, in that refuge. By that time they will say, "Speak your piece and get your votes if you have got them. If you do not, let the U.S. Senate proceed with an energy policy."

Is it not amazing? If I am hearing right, under the guise of having some procedural rights, the proponents of doing nothing on the Arctic National Wildlife Refuge are saying, "Unless we get our way, you will not have an energy policy in America." Actually, they are saying, "We want our way on ANWR, and you cannot have an energy policy unless you do it our way."

Frankly, I think that is just about as arrogant, in terms of our resources and our ability to look out for our people, as anything I have heard of. Someone talks of the oil available at ANWR as being only enough for 200 days, as if the American people will be fooled. What we are really talking about is an energy reserve that may yield up to 250 billion dollars' worth of domestically produced energy. It used to be: A billion here and a billion there really mounted up. But now it is $250 billion here and $250 billion there does not mount up.

That means we are going to leave $250 billion of American oil in the ground with all the thousands of jobs that go with it, the money that goes with it, and some are leaving the notion that we will do nothing, we just will not go drill for it. We will buy it from another country. That is what we will do.

You know, that is what is kind of what we are worrying about today, what is wrong with the American economy. And we take liberty with this American economy as if she had the most profuse capability to produce, that she can take all kinds of insults and just rock along. Well, this is a $250 billion one we are voting on.

And it is all right for those in America who belong to the various lobbying groups who do not want us to do anything there. And you know, I call them for what they are. They are lobbying groups, and the American people ought to know what they are. They are lobbying in our home States just as if they own something, as if they really were in the business. They used to say about our business people that they should not lobby us. But I guess it is all right for this kind of lobbying to go on. Every office is getting bombarded with calls about saving the ANWR, advertisements in our home States. Well, that just happens to be their position and we ought to have a right to vote on it, not hold up the energy policy of this country. And the same with the CAFE standards. We can vote here.

Let me say for those who want jurisdictional issues to hold this bill up, I see the distinguished subcommittee chairman from the Clean Air Committee. It was said that his bill on clean air came out and it was a strong bill and we did not get to vote on it on the floor. Well, that bill and some other parts of it had some of the Energy Committee's jurisdiction. But that is not an issue.

The issue is, it was not a filibuster that defeated his bill. He got his bill through. He just got it changed substantially over there in little rooms where we met for days on end, not because of a filibuster, but because an overwhelming number of Senators were not going to vote for it; They wanted it changed.

Now, if they have that kind of support here, let us just get the bill up. If they have got overwhelming support for their position, those who filibuster it will be felt. We will find out if they have overwhelming support. They do not. That is why. They do not have overwhelming support.

They may have enough votes to keep this from proceeding under a filibuster, but eventually the old chickens-will-come-home-to-roost notion will be out there is our country, the energy policy will lie at their doorstep. And do you know what it will be? None. None. We do not need one. Rock along with what we have got, because some people think they know better. They do not trust the Senate to vote anymore. They do not trust the committee. They trust a few and they trust their own experts and their own lobbying and their own ideas about American's future and American jobs and American investment and automobiles and alternatives. Their way or not way. That is the motto: Their way or no way.

Well, frankly, I hope it does not turn out that way. I hope we get an opportunity to debate these issues fully. And clearly the American people will end up deciding one way or another on the major issues before us, and we will do a better job if we get them down here and debate them.

We are not going to get much done if we dance around the edge with debates like tonight that are talking about cloture and filibusters and the very thing, when it comes to an energy policy, that causes most Americans to say what are you doing? How many days does it take you to decide whether you are going to take a bill up, especially a bill on energy policy?

So I thank the Chair for recognizing me and for the few moments I had this evening to speak on the subject.

I hope to be able to help the distinguished manager, Senator JOHNSTON, from Louisiana, and the ranking Republican, Senator WALLOP, of Wyoming, as they proceed with this bill. They have done a wonderful job under very difficult circumstances. I thank them and the many supporters. And I thank the supporters from all around the country. They are very interesting because they are former Secretaries of Energy, whether under Democrat or Republican Presidents, who have looked at this and said we ought to do it. But we are not going to have a chance so long as these are enough people who say do it our way or do not even move the bill. Our way or no way.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I believe that America needs to have an energy policy. Clearly, we paid a heavy price for not having had one in the last dozen years—or having abandoned the policy that we commenced in the late 1970's.

Second, I believe that Congress is going to have an important role in shaping that energy policy, so that at some point we are going to have to have before this Senate, with the clear differences of direction and values and philosophy that have already been expressed, the opportunity in our democratic system for the specifics of an energy policy to be debated and voted upon.

Third, I believe in any discussion of a public issue the fundamental beginning point is the diagnosis: What is the problem? You cannot prescribe unless you have further assessed what is the pathology that you wish to correct.

I must say, Mr. President, that what disturbs me most is that I believe there has been a fundamental misdefinition, misdiagnosis of the problem. And I submit as my most recent evidence of this, an article by Senator JOHNSTON which appeared in today's Washington Post under the heading "Last Chance for an Energy Policy."

I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 31, 1991]

LAST CHANCE FOR AN ENERGY POLICY

(By J. Bennett Johnston)

For the first time in more than a decade, a bipartisan consensus between Congress and

the president on a national energy policy is within reach. Several recent columns, including Sen. Tim Wirth's "Battle for the Arctic" [op-ed, Oct. 25] and Jessica Mathews's "Oil Not Worth the Effort" [op-ed, Sept. 13], focus on where disagreement remains. What should not be missed is how far we have come together on this issue. For the areas of agreement reveal how tragic the loss will be for the nation if that remaining controversy were to deny us any energy policy at all.

In long and fruitless debate throughout the 1980s, Congress and the president could not agree even on the existence of a problem. Now all concede that the United States has a fast-growing addiction to foreign oil from six politically volatile nations in the Middle East. In 20 years we will be importing 70 percent of our oil. The president, Congress and editorialists alike now see that we must "confront the tremendous economic and national security risks created by our dependence on imported oil," to use Wirth's words. There is also unanimity that the military option, especially in the Middle East, is no rational substitute for an energy policy. And everyone agrees that other nations will be watching carefully what we, the world's largest oil consumer, decide to do about our predicament.

There is even general accord on most of the solutions, again a giant step forward from the ideologically driven debate of the 1980s. First, improving our energy efficiency is essential. This is especially true for new automobiles and light trucks, which in the last three years have actually declined in fuel economy back to the 1985 level. Some, including the president, disagree about how far to press Detroit, but the general objective is undisputed. A basis for compromise is there.

Second, all agree we must encourage substitutes for oil, among them natural gas, biomass and solar energy. The bill reported out of my committee contains many provisions for enhanced efficiency and alternative fuels that I know Wirth endorses, because he wrote them.

What threatens the entire effort is disagreement about opening new areas to oil exploration, in particular the Arctic National Wildlife Refuge. Wirth espoused the case against the legislation that my committee has reported to the Senate. He said in a nutshell that we should not tolerate any environmental risk to look for oil in ANWR because whatever is there isn't enough to matter, given the vast oil reserves in the Middle East. Instead, we should use our technology for conservation and alternative fuels to stop our addiction to oil. This is our chance, he said, to lead the world and disappoint the Arab oil barons by saying yes to the environment and no to oil dependence.

But this issue is not just about ANWR, because the same arguments used here would, if accepted, apply to new oil exploration anywhere in the coastal waters of the Outer Continental Shelf and in fact any remote area of America not tapped for oil.

Our legislation is designed to control our growing addiction to foreign oil; it will not eliminate it anytime soon. The truth is that simply denying our country access to new domestic oil sources in ANWR and elsewhere does nothing to stop our addiction to foreign oil. It will not automatically result in greater energy efficiency or use of alternative energy sources. Without some other drastic method of altering the basic energy economics in the United States, consumers will continue to use foreign oil, inevitably from the Middle East. Yet I haven't seen any stampede of members to introduce legislation to alter those basic economics with a large oil import fee, which I would support. Another approach is hefty gasoline taxes, for which the votes are also lacking. No doubt our allies, who already have enormous energy taxes, will be watching to see how we can have our cake and eat it too with ANWR.

Those who say we don't need the oil are obliged to advocate their alternative. Winston Churchill's warning to the House of Commons is appropriate: "All attempts to bridge a 12-foot stream by an eight-foot plank are doomed to failure, and the plank is lost. It is a concession to bring forward a nine-foot plank, but again that may be lost." To write any national energy policy that says in effect we don't need any new domestic oil is to offer at best the nine-foot plank.

It has taken more than a decade to achieve consensus on the growing danger of our foreign oil addiction, the need for world leadership and the outlines of a comprehensive policy. Loss of this opportunity to establish an energy policy would be a tragedy for the nation. I believe that a reasonable compromise is achievable. To just say no to any compromise on ANWR is to say no to a national energy policy and yes to reliance on the Middle East for the lifeblood of our economy.

Mr. GRAHAM. Senator JOHNSTON states:

In the long and fruitless debate throughout the 1980's, Congress and the president could not agree even on the existence of a problem. Now all concede that the United States has a fast-growing addiction to foreign oil from six politically volatile nations in the Middle East.

The definition of the problem is that we have an addiction to oil from unstable nations in the Middle East.

I will admit that we have such an addiction; that the principal sources of our supply are unstable. But, Mr. President, I believe our problem is much more fundamental than that.

The problem for the United States as an energy issue is that we have a diminishing domestic resource of petroleum. That resource is currently estimated on the low side at 47 billion barrels, and on the high side at 80 billion barrels. I am going to assume the most optimistic scenario, a scenario that the scientists estimate only has a 5-percent chance of being accurate, and that is that we have 80 billion barrels of petroleum within the United States, including that which is available should ANWR be drilled.

We are consuming 6.3 billion barrels a year. Mr. President, if my math is correct, if we were to achieve the solution of the problem of eliminating the addiction to foreign oil totally and were to go completely on our domestic reserves and resources and do nothing else, in approximately 13 years we would have accomplished the national goal of draining America. We would have zero petroleum under our national sovereignty. At that point we would be totally dependent on foreign sources because we would have no domestic sources.

So, Mr. President, I think the problem properly defined is not America's addiction to foreign oil, it is America's addiction to oil. Fundamental to any rational energy policy is an effort to stretch the number of years in which we can still have that domestic resource available to us.

Part of the question of an energy policy is—for when? For what time period? Are we talking about an energy policy for the next 13 years? Are we talking about an energy policy that will last for the lifetime of those Americans currently in their adult years?

I do not believe that is an acceptable energy policy. I believe we must have as a central objective how to husband that 80 billion barrels of petroleum that we have, to make it last as long as possible and, therefore, to restrict and cause to recede the date upon which America will be totally dependent upon foreign oil.

Energy policy, Mr. President, does not exist in a vacuum. It is linked to other national goals. Energy and transportation are important goals, important because the transportation uses over 60 percent of all of the petroleum that we consume in the United States, it uses 25 percent of all the energy sources that we consume in the United States.

But, do we have a transportation policy which encourages rational conservation of our limited petroleum? Do we have an energy policy linked to a transportation policy that will encourage things that we know will conserve petroleum, such as more efficient automobiles? Encouraging people to move from automobiles to more efficient forms of transportation? Are we looking into the 21st century with things that have become common in the 20th century in Japan and Europe, such as high-speed rail as an alternative to more energy-intensive forms of transportation? The answer is, Mr. President, regrettably, no. We have an energy policy which has been lost within our transportation policy.

In fact, the President's budget this year, appalling as it sounds, actually recommended a cut in our Nation's effort toward alternatives to the single vehicle as a means of transportation. We have stagnated over the last 5 years, in terms of increasing efficiency of our vehicles.

Mr. President, an energy policy is not delinked from an economic policy. It is critical that the United States become more competitive economically with the rest of the world. Yet, today we are consuming about twice as much energy in all aspects of our economy as our major competitors. That means that when we look on the showroom floor at an American automobile, one of the reasons that its price is what it is, is because it carries a substantially higher increment of energy cost in its production—not its operation but in its production and manufacture—than does its competitor from Europe, and

particularly its competitor from Japan.

Not only do we have the need to stretch and husband our remaining 80 billion barrels, we have a need to make our society, our economy more efficient, if we want our society to be more competitive.

We know some of the things that are available in order to accomplish the stretching. We know the potential for the development of increased alternative fuels. I, for one, support an increase in nuclear, as part of our strategy to stretch our remaining domestic petroleum reserves. We know the potential in cleaner, and alternative fuels. We know the potential in continuing to add to our strategic petroleum reserves so we are increasing the amount of petroleum which is available within this country.

In addition to energy policy being part of transportation policy and economic policy, and clearly environmental policy, it is also an important cultural issue. We have had in area after area a tendency to transfer from our generation to future generations the hard choices and the consequences of not making those hard choices. We have seen it in the way we have handled our Federal budget, where our children and grandchildren are going to live their lifetimes paying a substantial amount of the bill that we're unwilling to shoulder ourselves. We are going to see a generation of Americans who will reach their retirement in the early part of the 21st century, with a Social Security system that is substantially less stable than is the one that we have today because, instead of investing those enormous surpluses that are being developed in Social Security, we have used them to fund that budget deficit.

We are seeing an infrastructure that is crumbling. We are soon going to pass a transportation bill, Mr. President, unless something unexpected occurs. It will be a transportation bill which will assure us that our Nation's highways and public transportation systems will be worse 5 years from now than they are today. We are transferring to future generations a deteriorating American infrastructure.

And in energy policy, what we are about to say is that we are going to continue to operate essentially as we are today, consuming 6.3 billion barrels of oil; we are going to try to have a policy which will increase the proportion of that which is from domestic sources; we are going to accelerate the day at which we will have totally depleted our domestic reserves. We are going to soon have the day in which America will lose its national energy sovereignty as it relates to petroleum because we will have exhausted that reserve.

Mr. President, the dilemma that I and, I suggest, many of our colleagues have is how do we break this Gordian knot? How do we come to grips with the need for an energy policy which is directed at the real as opposed to the transitory problem?

Mr. President, I urge the proponents of this legislation to do as Senator BAUCUS and Senator MITCHELL and others did with the Clean Air Act. What ought to happen for the benefit of our Nation is a pause in which there can be thoughtful, sustained attention to the complexities of a national energy policy. I believe the Nation was well served by what happened between the days that we initially considered and then the days in which we began the process of debate on the Clean Air Act and what happened in those approximately 30 days was an intense discussion and resolution of an interrelated web of highly complex issues to finally produce legislation which received the affirmative vote of the vast majority of the Members of this body, and finally has now become the law of the land.

I believe that process has the greatest potential of allowing us to focus on the methodology and prescription for a national energy policy. I fear if we were to take the path that has been suggested that we are again saying our generation is not going to carry any pain, our generation is going to continue essentially business as usual. Our generation is going to accelerate the consumption of finite vital national resources so that our children and our grandchildren can live in a depleted America.

We have just celebrated the 103d birthday of Theodore Roosevelt. Theodore Roosevelt challenged this Nation in may ways. One of the ways he challenged us was to say that we were trustees of this planet and that the test of our trusteeship is if we could leave to the next generation not a world depleted but a world enhanced by our presence. That is the challenge before us today. As we turn our attention to a national energy strategy for America, will we be able to say that at the conclusion of this policy that we have left an America enhanced to future generations, not one which is depleted and dependent.

S. 1220 IS THE WRONG ANSWER TO THE WRONG PROBLEM

The energy bill recently reported out of the Energy and Natural Resources Committee looks awfully familiar. It should, because it is little more than the President's National Energy Strategy, which was roundly criticized when it was floated this Spring.

And like the Bush plan, it is the wrong answer to the wrong problem.

This energy bill misdefines the problem as oil imports rather than our overall dependence on and inefficient use of oil.

The solution it proposes is to greatly accelerate exploitation of our domestic natural resources and "drain America first."

At best, it would buy our Nation only a few additional years of avoiding fundamental change, at the cost of even greater dependence on imported petroleum in the next century.

THE NUMBERS DO NOT LIE

According to the Department of the Interior and the Congressional Research Service, the most likely estimates are that we have only 27 billion barrels of domestic oil reserves, and 36 billion barrels of resources.

Reserves are known quantities of oil, and can be measured with fairly high accuracy. On the other hand resources, defined as undiscovered but economically recoverable oil, are harder to quantify.

These agencies estimate that there is a 95-percent chance that oil resources could be as little as 20 billion barrels, and only a 5-percent chance that they could be as high as 53 billion barrels.

Yet even if we assume the most optimistic—and highly unlikely—scenario, that means America has only about 80 billion barrels of oil left in the ground.

Unfortunately, we consume oil at an alarming rate. In 1990, we used 6.3 billion barrels a year. About half of that was imported.

Do you realize that if we were to rely exclusively on our domestic supplies and did nothing to decrease our consumption, that we would completely exhaust our own supply of oil in 13 years?

People do not believe that, because they do not want to believe it. But mathematics do not lie: Divide 6.3 into 80, and you get "Less than 13 years."

Opponents will say, "But if the price goes up, there will be incentives to find more oil." I'm sorry, but the 80-billion-barrel estimate is the most optimistic scenario and assumes finding the maximum possibly recoverable.

Thus, any strategy that focuses almost exclusively on producing more oil rather than using less is dangerously nearsighted. All we will be doing is shifting to our children the burden of coming up with a rationale answer to our oil addiction.

But the problem is ours, and we must address it now.

THE ADMINISTRATION'S ENERGY AGENDA IS A FAILURE

Energy policy does not exist in a vacuum. It must be integrated with improving environmental protection, transportation efficiency, and economic competitiveness.

Last winter, Congress received the administration's proposals for a national energy strategy and a national transportation policy. These issues are closely related; nearly two-thirds of America's oil, and a fourth of all our energy, is burned for transportation.

But the two plans made virtually no reference to each other.

One way to reduce our dependence on petroleum is to move passengers and freight more efficiently. The Tri-Coun-

ty Rail System that links Dade, Broward, and Palm Beach Counties takes some 2,000 to 3,000 vehicles off the crowded highway system in south Florida each day.

Yet, the President's transportation plan offered no leadership for mass transit; Federal support would be cut.

Meanwhile, America continues to consume approximately twice as much fuel per capita as our principal competitors like Japan and Germany. We will be at an increasing competitive disadvantage if this trend continues, but the administration-inspired energy bill makes virtually no attempt to increase our fuel efficiency.

We must correct that mistake.

WE NEED TO IMPROVE FUEL EFFICIENCY

Moving toward energy security doesn't have to degrade our lifestyles. Fuel efficiency in cars increased markedly in the seventies and much of the eighties, without reduction in comfort, quality or safety. Auto fuel efficiency increased 78.5 percent from 1975 to 1990, from an average of 15.8 miles per gallon to 28.2 miles per gallon.

However, auto fuel efficiency began to level off in 1986 and declined in 1988 and 1989. If America is serious about energy conservation, we must improve the fuel efficiency of new cars.

Increasing auto fuel efficiency 40 percent by the year 2001 could save America 2.5 million barrels of oil daily, nearly 15 percent of our total domestic consumption. Such improvement should be a basic component of our energy policy, but the oil industry, the auto lobby, and their allies in the administration continue to vehemently fight this goal.

The counterconservation strategy of the Administration is out of sync with the pervasive environmental awakening in this Nation. McDonalds stopped using foam containers for Big Macs. The tuna industry brags about protecting dolphins. More Americans than ever are recycling glass and paper.

DRAINING ANWR AND AMERICA FIRST IS NO LONG RANGE PLAN

The President's plan calls for oil drilling in some of the Nation's most sensitive ecosystems, including the Arctic National Wildlife Refuge [ANWR] in Alaska.

Even if we put aside the significant environmental damage that such drilling would cause, and if we assume that there is as much oil in ANWR as the oil companies say, why are we rushing to drain America first?

Under one scenario from the oil industry, we will drain ANWR in 10 years. That will leave us in no better position than we are in today.

In the long run, our national security depends on preservation of our natural resources. Stopgap measures, such as drilling in the Alaskan refuge and other environmentally sensitive areas, are not the answer to our energy needs.

Daniel Yergin writes in "The Prize" that the debate between conservation and "drain America first" goes back at least to World War II. Then-Secretary of the Navy James Forrestal argued that extraordinary measures to maximize American production after the war could deplete future strategic reserves.

WE NEED ENVIRONMENTALLY SOUND ALTERNATIVES

Instead of pumping ever more oil, we need to invest in energy sources which are sustainable and do not pollute our environment. For instance, solar energy will only be a significant resource when we improve the photovoltaic cells which allow us to harness the Sun's energy.

Nuclear power can also play a significant role in meeting America's needs, but only when we can ensure the safety of plant operation and waste disposal.

For transportation, we must commit ourselves to developing new cleaner fuels, and alternatives to the automobile. If the prices for our energy sources were to reflect accurately all their costs—economic, strategic and environmental—market forces would lead us away from oil and other depletable resources.

But that is economic theory, which is subject to endless debate. The bottom-line challenge facing America is beyond debate. We are consuming fossil fuels much faster than nature made them.

If we want to remain strong—at home and abroad—we must wean ourselves and embrace a future of conservation and alternative energy sources.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. I thank the Chair.

Mr. President, earlier today when I had the floor, I misspoke myself concerning statements of the occupant of the chair. For that I wish to apologize. I had quoted him as saying, as I thought he had, that there was not much interest in this; and, in fact, what he had said was there was no public interest groups.

So I misspoke myself and for that I apologize. I did not wish to have him believe that I had accused him of an untruth.

I say in all honesty I do not know what he considers public interest. Usually in the eye of the beholder, certainly the chambers of commerce of all the States in America and the national chamber, for those who belong to them feel they are a public interest. Certainly the citizens for a Sound Economy, citizens for the Environment, the Coalition of Northeastern Governors, the Electric Consumers Council, the Energy Council, Western Governors Association, the National Association for State Legislatures, National League of Cities—all of those have some claim on being public interests.

I would say as well, Mr. President, that I have new letters of support for this legislation—one from the Institute for Public Affairs signed by Mandell Ganchrow and Bill Rapfogel of the Union of Orthodox Jewish Congregations of America, from the Chairman of the Joint Chiefs of Staff, and from the National Security Adviser to the President of the United States.

I ask unanimous consent that those letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INSTITUTE FOR PUBLIC AFFAIRS,
New York, NY, October 24, 1991.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, DC.

HON. MALCOLM WALLOP: The Orthodox Union is deeply committed to working toward an effective and comprehensive national energy policy. One of the most important goals of an energy policy is to reduce our nation's dangerous dependence on foreign sources of oil.

Currently, America is 50% reliant on imported oil, more than half of which is imported from OPEC countries. Oil production from all major domestic oil fields is declining, so without new sources of domestic oil production the situation will only get worse. Today, our nation spends some $150 million a day on imported oil. This accounts for over one-half of our trade deficit.

Accordingly, the Orthodox Union strongly urges your support for the exploration and development of the potentially vast oil reserves of Alaska's Arctic National Wildlife Refuge (ANWR) as provided in Senate Bill S. 1220. ANWR has the potential to supply America with major quantities of oil for twenty to thirty years. President Bush and the Energy Department have declared that ANWR can be developed in an environmentally sound manner.

Increased U.S. reliance on Middle East oil is not in the national interest. Our foreign policy and in particular our interest in Israel, our one democratic ally in the region, must not be held hostage. The exploration and development of ANWR oil is one important step in reducing our reliance on imported oil. We strongly support it and hope we can count on you.

Sincerely,

MANDELL I. GANCHROW,
Chairman.
WILLIAM E. RAPFOGEL,
Executive Director.

THE CHAIRMAN,
JOINT CHIEFS OF STAFF,
Washington, DC, October 25, 1991.

Hon. MALCOLM WALLOP,
Ranking Republican, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: Thank you for your letter informing me of the upcoming consideration by the Senate of the National Energy Security Act of 1991 (S. 1220). I join Secretary Cheney in supporting the passage of this important legislation.

In my role as Chairman, I am acutely aware of the linkage between a sound national energy policy and the ability to use our Armed Forces effectively. A most important element of this linkage is the need to lessen America's reliance on foreign sources of energy. Since the Armed Forces are a

major consumer of energy and ready access to available sources of energy is critical to the success of our mission, I fully support efforts to achieve an energy-independent America.

I support the Defense Department's endorsement of S. 1220, with the modifications requested by the Administration. Your continued efforts on this critical subject are of the utmost concern to the Department. I appreciate the opportunity to comment on this legislation.

Sincerely,

COLIN L. POWELL,
Chairman, Joint Chiefs of Staff.

THE WHITE HOUSE,
Washington, October 24, 1991.

Hon. MALCOLM WALLOP,
Ranking Minority Member, U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: Thank you for your letter of October 3 on S. 1220, the National Energy Security Act of 1991.

I strongly support Congressional passage of legislation which will contribute to developing a viable, comprehensive approach to our energy needs. When modified as requested by the Office of Management and Budget, S. 1220 will make a significant contribution to improving our energy security.

I greatly appreciate the time and effort you are devoting to this very important task.

Sincerely,

BRENT SCOWCROFT.

Mr. WALLOP. Mr. President, I hope the Senator from Minnesota accepts the apology of the Senator from Wyoming, but I have a couple of other quick things. I am glad the Senator from Florida is still on the floor because he simply either has been misadvised as to what the bill contains or he has not read it.

All the ideas expressed by the Senator from Florida cost money. All of the ideas expressed by the Senator from Florida are contained in the bill. All of the ideas expressed by the Senator from Florida are paid for by the production of energy out of the United States.

Earlier the Senator from Montana made the claim that oil companies, big oil, had taken $40 billion out of Prudhoe Bay. Mr. President, if that is the case, and if that is an accurate figure, so, too, did the United States harvest a lot of taxes out of those dollars. So, too, did the State of Alaska harvest a lot of taxes out of those dollars.

The energy bill is set up today as the revenues from ANWR, the revenues from production go into the research and development of electric cars, of new conservation technology, of biomass fuels, and all the kind of things that the Senator said he hoped we would do. But I point out that there is one very specific thing that he and others are overlooking: We are not in any near term going to be able to eliminate oil as part of the transportation mix. Inasmuch as we are not, the money that is paid for that oil as part of the transportation mix will either be paid into the coffers of the United States, in part into the coffers of the United States, or paid totally into the pockets of Arabs and foreigners. It is as simple as that.

We cannot get something for nothing out of all of this.

I would say, there have been so many misstatements. Senator KENNEDY from Massachusetts said that we expanded offshore drilling. In fact, we contracted it. This Senator thought that was a strange thing to do in an energy bill. This Senator believes an energy bill to have balance must call for some production as well as for some conservation, but what the Senator from Florida overlooks, and others criticizing this bill, that when balanced in the accounting, that this bill saves about 2 to 1 over what it produces. The conservation sections of the bill are that much more effective than the calls for production are.

So I hope he might get with his staff and others and take a look at the assessments that have been made on this bill because what we are trying to do is to get to the point where we can debate those provisions. If more conservation is the wish of the Senator, more innovative transportation systems are envisioned in this bill, more innovative means of generating electric power are envisioned in this bill; how can we get to that point unless we have the vehicle to which the amendments can be offered?

So, Mr. President, it is clear the Senator from Wyoming is going to have more than one thing to say about this bill before it is all over. But I did want the occupant of the chair to understand I did not intend to impugn him. I did want the Senator from Florida to understand that there is more to this bill than was portrayed by the able and eloquent remarks that he just gave us. I hope that when he discovered all of those things he might join us in getting to the floor where we can debate and, in fact, improve or even, in fact, knock down and defeat the bill.

But in the lifetime of this Senator in the U.S. Senate and, in fact, in the lifetime of this Senator's awareness of politics, there has never been a balanced and total comprehensive energy policy offered. This is the first one. What a shame to lose it on a filibuster.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. I thank the Chair.

Mr. President, I want to take a few moments if I can just to share some thoughts with respect to the energy bill.

I would like to begin by commending the Senator from Louisiana who has put a lot of time and a lot of effort into trying to come up with an energy policy for the country. I heard him earlier talking about the question of whether or not we want to debate an energy policy, as if that is really the issue in front of the Senate, when it is not. That is really a red herring.

The question is not whether or not we want to debate an energy policy, but it is whether or not this bill, this so-called energy policy, is in a condition that is ready to be debated, that it represents really a broad enough cross-section of the Senate's view of what an energy policy ought to be rather than representing, as I and many others think it does, a rather narrow view of what energy policy ought to be and particularly a significant amount of what the administration thinks ought to be the policy of energy.

A lot of us are very troubled by different titles of this bill, by different sections of it. I want to take a moment to think about this bill in the context of where we have been over the last years and what that means.

We were shaken last year by the events that led up to the Persian Gulf crisis. I am not sure why we were so shaken because, really, we had been through it before and we could see it coming. But as is often the case in this country, we have a way to getting past the moment of initial crisis and we put it behind us.

So the eighties were an extraordinary period of willful turning away from reality about energy.

In the 1970's, we had people pulling guns on other Americans in gas lines, and we had people waiting hours in fuel lines and adjusting their lives, and we even were into a rationing system. We have been there.

The result was that in this country sensible people stood back and said we have to have an energy policy. Indeed, for a period of time, we developed what we thought was an energy policy. We created incentives for alternatives, renewables. We began to do a lot of research. We created the Solar Institute and funded it. A lot of things began to happen. Indeed, the United States became the world's leader in photovoltaics and in other technologies relating to new fuels.

Then suddenly, when President Reagan came in, he openly abandoned all pretext of Government leadership in trying to set energy policy. The Reagan energy doctrine was that there is no need to conserve, no need to be efficient, that the market is going to take care of that, and in fact, President Reagan was so confident about the Nation's energy situation that he defined his mission as one of dismantling the Department of Energy. Funds for research into those alternatives, photovoltaics, were sucked away. I think we had something like a $200 million budget out in Colorado, and $150 million of it was taken away.

People who were tenured professors at universities in this country who have left those positions of tenure in order to go to become researchers for the future were suddenly out in the street without a job, and basically the effort stopped. The result today, in

1991, is that Japan and Germany are the world's leaders in the technologies that we have handed them. We have the gall to ask ourselves, as we so often do, why we fall behind and why we have a problem?

This bill, I regret to say, represents some aspects of where we would like to go in terms of energy, certainly in the areas that it sets out to address. But the manner in which it addresses those areas is fundamentally in the same vein as we have been for the last 12 years or more, dependent upon oil, not acknowledging the extraordinary demands that we face with respect to the future on clean air, health-related hazards, global warming, and so forth.

I view this bill as somehow an acknowledgment that the Congress cannot do better, that we as legislators cannot pick a better beginning point from which to suggest to the Nation a debate on energy policy ought to start.

I am troubled somewhat about some aspects of the process. I am not going to go into all of those right now. But it disturbs me as a member of the Commerce Committee who, as one of the primary sponsors of CAFE, has worked with Senator HOLLINGS, and others, Senator BRYAN, to see that we have a sensible policy there, that the Commerce Committee efforts seem to have been left somewhere in the dust in this presentation.

It concerns me that other efforts of other committees—other individuals who have long had an involvement in certain areas here—that those committees also seem to not have their expressed will reflected in what we have here at this point in time.

But consider the real meaning of the Arctic National Wildlife Refuge.

Senator JOHNSTON from Louisiana came to me, and he is a friend. I respect enormously his commitment on this. I think he wants an energy policy. I think he is facing the difficult task of trying to meld together the many different interests that are represented here. In that effort he asked me if I would review, If I would have an open mind, to look at the Arctic National Wildlife Refuge. I did that, I think, with a genuine open mind.

It is interesting because I did learn some things. I learned that some of the arguments being made by some environmental groups in fact were not correct with respect to some aspects of that issue. I certainly came to a conclusion about certain claims about footprint of gravel or about dislocation of certain caribou or something. I felt that at least there were questions with respect to them, that they were not settled issues, and that one could find legitimate argument on them. But what I could not find was a rationale for drilling in the wildlife refuge. Under the best of circumstances, I could not find the rationale right now.

If the purpose of it is to impact the balance of trade or if the purpose of it is to somehow affect our dependency on foreign oil, there ought to be a showing that it does that. But there cannot be such a showing because it cannot do that beyond the most marginal level.

Sure, there is a tiny upsurge in oil if you find it, and if you met your best expectation of 200 or so days, 2 percent of the United States' demand, sure you are going to get a little bubble there. But in terms of ever affecting U.S. dependency on foreign oil—who is kidding whom?

No one can pretend that the amount of oil you would get out of the Arctic National Wildlife Refuge would in the least way affect this Nation's security capacities or any decision we would have to make about in a war in the gulf or anywhere else, because there is not enough oil there for this country to survive more than 200 days if it is applied to the total demand for a contiguous period of time.

The real issue is whether or not the United States of America is going to continue to be dependent on oil and whether or not we want to violate what that symbol means in the context of judging a real energy policy for this country.

I hear my colleagues say, well, it is terribly important to drill there now because of the dependency and all of the security issues and so forth. But, Mr. President, the price of oil is going to go up. I presume demand is going to go up. And clearly supply in other parts of the world ultimately is going to go down.

So it seems to me that a country that is willing to spend money to put oil away for a crisis, being our national security reserve, if we are willing to do that, why would we want to dig the last natural national security reserve that exists? It makes far more sense as a hedge against the future to keep this oil where it is and to proceed down the road of developing alternatives with the possibility that if we are not good enough or do not or cannot, we know we have this reserve ultimately if there were an emergency or an exigency that demanded our drilling it.

But in the face of the bill that weakens standards with respect to electrical powerplants, that weakens standards with respect to nuclear power safety, that strips the Northeast of some of its capacity to have access to natural gas, that does not mandate or press people into a state of conservation in some of those areas where there is enormous room for conservation—to now proceed to drill in the face of all of those other negatives in this legislation, and to use up the so-called last natural national reserve of oil simply does not make sense.

It does not make sense practically. It makes even less sense in terms of the message it sends to America that we can just go ahead and live as usual. We cannot.

So, Mr. President, I am not going to belabor each and every one of the areas of concern that I have about this legislation, though they exist in the nuclear licensing, they exist on the CAFE where we are doing far less in this bill than I think the majority of Senators believe we could be doing.

There is a provision for offshore oil licensing in this legislation which I believe opens up an issue that many of us thought we had settled and laid to rest. For those of us with areas such as the Georges Bank of Massachusetts where we are currently preventing oil and gas activities, this bill, we fear, has loopholes which begin to open up the possibilities of that drilling.

I support the revenue sharing measures, Mr. President. But those revenues should not be distributed with no strings attached. They should be distributed in a way that encourages conservation and ameliorates environmental damage from oil and gas activities.

I believe that the clean air standards provisions should not be permitted to be weakened as they do here. This bill permits local increases of sulfur dioxide and even larger increases of nitrogen oxides right in the wake of our working so hard to clean up acid air, and have smog limitations.

So, Mr. President, it is my hope that Senators will decide that this bill is not ready for debate yet; that it does not represent consensus with a national energy policy that we ought to have.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I thank my friend, who has been waiting for some time for what I understand is going to be a rather thorough presentation on the energy bill. I will not be that long, and I very much appreciate the opportunity to respond.

I spoke earlier in the day and, of course, tried to enlighten some of my colleagues on the merits of this energy package and the substantial responsibility that they were undertaking by leading this filibuster fight against even bringing the bill to the floor.

Mr. President, if one relates to what is occurring here, really, it is a cop-out by this body to address the hard decisions that are necessary to have a comprehensive energy policy.

More simply put, Mr. President, are the misleading statements that are made by Members of this body that are diligent, but very naive. We have heard time and time again in this debate the issue of, well, why should we open up the Arctic coastal plain, the 1002 area, and explore this area and leave a lasting footprint for only a 200-day supply of oil?

Mr. President, every Member who has spoken with some degree of expertise

on ANWR assumes there is oil there. They assume there is 200 days there. We do not know what is there, Mr. President. We do not know if there is any oil.

We had a major identification of an area called Mukluk several years ago. Mukluk was a structure. The experts, geologists, told us that we were very lucky to find a major field. It was put up for lease. The oil companies bid it. Some companies virtually staked their corporate fortune. And the oil was there—it was there 10,000 years ago, but it was gone. We do not know if there is any oil in this area. We will not know unless it is put up for lease, and there better be a lot of it, or it will never be brought to market. These are the facts.

When you say a 200-day supply, what does that mean? I am sick and tired of hearing this generalization: Well, it is only a 200-day supply. If ANWR is a 200-day supply, how many days will alternative fuel supply us with; 1 or 2 days, or one-half a day?

Which 200 days will we go without cars, buses, planes, trains, no heat, no food, no pharmaceuticals? Let us put it in another comparison, Mr. President. If it is a 200-day supply, it will be the third largest field ever found in the United States, next to Prudhoe Bay and east Texas. If it is a 600-day supply, Mr. President, it would be as large as Prudhoe Bay, or perhaps larger. And what has Prudhoe Bay been doing as a 600-day supply? Well, as a 600-day supply, it has been supplying this Nation with 25 percent of the total crude oil produced in this Nation for the last 15 years.

That is pretty significant. We do not know what is there. We will not know what is there until we initiate expiration, and we will do it by competitive bidding with the private sector.

I have heard tonight "big oil this" and "big oil that," but I have never heard "jobs." I have never heard that people can buy a home because they work for an oil company, or are a member of a community that goes to the concerts and to the symphonies, people like you and me, or maybe they are not. Maybe they are the real people in this country.

Oil brings jobs. Oil fuels airplanes. Oil makes an automobile industry in this country. Surely, we have to wean—and we are—our dependence on foreign oil by encouraging alternative fuels. But make no mistake about it. My colleague from Massachusetts just said he expected the price of oil to go up. No, Mr. President, it is not going to go up. OPEC figured this thing out. They are going to keep the price of oil relatively low, so it will be very attractive for us to continue to bring in large amounts of imported oil. That is a fact. So that we cannot bring in alternative fuels without subsidizing them. That is a fact.

They have learned their lesson in OPEC, and we have not. They must be just gleeful tonight as they observe this debate, knowing indeed in advance what is happening. What is happening is we are going to be importing more oil from OPEC, and we are going to bring it in foreign vessels, crewed by foreign crews, vessels built in foreign shipyards. We are paying $57 billion today for that oil, and we are going to be increasing.

Why are we going to be increasing, Mr. President? Because our production is in decline. That is just a fact.

Nobody mentions the reality that when you are in a process of decline, and you have an area at a level of consumption, you are going to have to get it from someplace, and you are going to import it in foreign ships. That is just as simple as the reality of what is occurring. But some of my colleagues seem to have this idea that there is something else out there, some other alternative.

We talk about the footprint. What is the footprint likely to be? I will tell you what it is, Mr. President. It is likely to be 12,500 acres, if the oil is there. Do you know how big that is? That is as big as the Dulles International Airport, assuming the rest of the State of Virginia were a wilderness. Yes, that is the footprint, if the oil is there.

The area is covered with ice and snow four-fifths of the year. If the oil is not there, there will never be a footprint. But the Federal Government and my State will share substantial revenues, as much as $3 billion to $6 billion.

But if the oil is there, Mr. President, what is going to happen in this country is you are going to see the economy pick up. Do you know why? Because there are 745,000 jobs at stake here in 47 States.

Do you know what the contribution is, Mr. President, of the gross national product is going to be $550 billion. Almost $50 billion in my State alone. So one can quickly see that this is a jobs issue, too, as well as an environmental issue.

And make no mistake about it. As I have said before, Prudhoe Bay is the finest oil field in the world. If we do not want an oil field, that is something else again. It is not perfect, but it is better than anything that has been developed anywhere in the world, with sensitivity to the environment and ecology, and the same application can take place and will take place if this body moves on this energy package and we initiate the authority that is necessary to put this up to competitive bids.

So, Mr. President, there have been suggestions that there will be little gain and so much lost if we open this up. That simply has no justification whatsoever. There is going to be so much lost if we do not open it up: the economy of this Nation, jobs, and the lessening of dependence on the Mideast.

You know, Mr. President, sometimes we overlook the wishes of the people. If you look at the attitudes in Alaska, I will tell you that the native people want the responsible development in ANWR. They have seen what Prudhoe Bay has offered them: alternative lifestyle, education, medical facilities that they never had before. These are the things that mean a lot to people. They have known, as a consequence of the experience we have had in Prudhoe Bay, that their lifestyle can be protected because they have a role in it. They are conservation-oriented people. People of Alaska want this to happen. Our Eskimos who live there want it to happen, the Governor, the legislature, and certainly the delegation.

But do the leaders of this filibuster care about energy strategy? I do not think so. ANWR is the lightning rod, but ANWR is the underpinnings. It is going to finance alternative energies. What do they really care about? You know what they care about. They care about the environmentalists as an elite class. You know how many visitors there were last year in ANWR? They were 154, Mr. President. Do you know what they paid to get there? Approximately $5,000.

That is a fact. Look at how many jobs we are looking at in this country to offset what a few elite can enjoy in an area. That does not necessarily suggest that we cannot open it up in an environmentally sound manner because what they do not tell you, and nobody on the other side mentions it, there are 19 million acres in ANWR and 8 million acres have been set aside in a wilderness in perpetuity. You know what that means around here? And 9.5 million acres have been set aside in a refuge that can only be opened up by Congress. We have 1.5 million acres remaining in the 1002 area that this body and this Congress has the authority to open up for competitive bidding.

You wonder where this issue is going? Mr. President, it has become a political issue; it has become a partisan issue. This energy bill is viewed as President Bush's energy bill. Why should we support President Bush's energy bill in an election year. What an unfortunate set of circumstances? One wonders, Mr. President, where these opponents will be in 10 years. And one wonders, when we get 70 to 75 percent dependence on imported oil, which we will, that is when OPEC will say that now is the time to begin to raise the price. And when oil is $40 or $45 or $50 a barrel, you watch the attitude in this body change. You watch the consumer that says, "Hey, wait a minute. Enough is enough."

Why not do it now, Mr. President? Find out if it is there, bring the environmental community aboard. Let them help us design the safeguards, if

the oil is there. But, Mr. President, the environmental community is holding no prisoners on this one because it is a great issue. It is 3,000 or 4,000 miles away. Only a few of them get up there, and they are telling you and they are telling me that we should not do it, that we cannot do it, that we do not need it. Mr. President, we are running amuck in this body if we are led to believe that we cannot initiate this authority and do it in a responsible manner, and they should come aboard and help us.

The last point I want to make, Mr. President, is this issue of a complete Arctic ecosystem. It sounds beautiful. But, you know, my State is one-fifth the size of the United States, 2½ times the size of Texas, a population of about 550,000. We have 54 million acres of designated wilderness already, the size of the State of South Carolina. Some of us are asking how much is enough?

I tell you what the environment community is committed to in Alaska. They have told us——

They had a function here in Washington. They were nice enough to ask me to speak. It was called "Wild Alaska." I get enough of wild Alaska when I get home. But their commitment, by the end of the century, is to put 100 million acres of my State into wilderness. You might as well put up a big sign that says, "Keep Out."

Mr. President, we are not drilling off the coast of California, we are not going to drill off the east coast, we are not going to drill off Florida, we are not going to drill in Bristol Bay. Here is an area, on land, where we have proven, with the Prudhoe Bay development, that we can responsibly drill for oil and gas in the Arctic, and this body of so-called experts that know nothing about the record of drilling in Alaska and their impressionistic attitudes prevailing where some suggest, "The *Exxon Valdez* is the reason I cannot vote to open up ANWR." There is no connection between the marine disaster and opening up an oil field on land and connecting it to an existing pipeline.

Mr. President, as this body, I hope, reflects on the merits and the criticism of big oil, that they reflect on the realism of people, of jobs, of raising children and what this means to the productive capacity of this Nation. And, if we do not have the expertise within the technology that we have developed that we cannot open up this area safely, why, then, perhaps we should pursue some other alternatives that are yet to be spelled out.

But, Mr. President, we clearly have an obligation to work together not as obstructionists, but to develop a comprehensive energy policy. And never before have we gotten this far before in the sense of having such a comprehensive policy, and now we have an obligation to work together to make it better.

My friend from Colorado, who suggests that we should spin out ANWR, that is, the lightning rod that can take care of CAFE, is being totally unrealistic with reality. We had the hearings and voted it out. We had a solid vote, 17 to 3. As a consequence, Mr. President, the will of this body should be to proceed with the traditional process where the bill comes up and is allowed to be debated under the normal procedure of 50 votes making a determination of the ultimate outcome. If that is not the will of this body, then I am afraid, Mr. President, that we will live to regret the action that would be taken not to initiate a forward progress with this energy bill and a realistic recognition that development of ANWR could go a long, long way toward stabilizing not only our economy but challenging our ingenuity to do it in a responsible manner.

I thank the Chair, and I thank my colleagues who have waited, and I wish you all a good day.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I rise to state my position on the cloture motion. Before I begin, I want to express my appreciation to my colleague from Vermont who has a much more impressive, at least in its display characteristics, presentation than I will have and I think, knowing him, in the depths of his argument as well. He has been very patiently waiting and permitted me to go ahead, and I express my appreciation to him for that.

Mr. President, tomorrow the Senate will vote on a cloture petition on the motion to proceed to S. 1220, the National Energy Security Act of 1991. I will vote against cloture. I do not think this bill is ready for Senate consideration.

REACTIVE POLICIES

On several occasions over the past twenty years this Nation has tried to establish a comprehensive energy policy. Each of these efforts has come after turmoil in the Middle East that disrupted our energy supplies and damaged our economy. American hostages and American troops have been at the center of some of these events.

In response to each new crisis, there has been a demand for energy independence. "Let us free America from this entanglement in the Middle East. Let us be energy independent so that we need not risk American lives for foreign oil. No blood for oil." That is the cry we have heard.

And Presidents and the Congress have responded. President Nixon gave us Operation Independence. President Ford called it Project Independence. President Carter called it the moral equivalent of war. And now we have the National Energy Security Act of 1991.

THE SIREN CALL OF INDEPENDENCE

During the debate on this bill we will hear the now familiar refrains time and again. "We need to do everything we can to reduce our dependence on foreign oil. We have plenty of domestic energy * * * coal, natural gas, corn power * * * to replace foreign oil. We are the Middle East of coal. And, if we were just more efficient we could save as many barrels of oil as we import from the Middle East." The premise that we can and should strive to be energy independent is behind each of these slogans.

But in our drive to be energy independent, we have made some colossal errors over the years. President Nixon put price controls on domestic oil, encouraging its use and actually increasing our dependence. The 1977 spasm of energy policy brought us the Powerplant and Industrial Fuel Use Act that tried to limit the use of natural gas, especially to generate electricity. The Industrial Fuel Use Act was later repealed and the Clean Air Act passed last year tries to encourage the use of natural gas to produce electricity.

Many of us were here for the windfall profit tax, a centerpiece in our response to the Iranian Revolution and attendant oil problems in 1979 and 1980. It has also been repealed. And most of the solar energy and conservation tax gimmicks that went with it have also been allowed to lapse, gimmicks which I participated in.

And who can forget the Energy Security Act of 1980? It created the Synthetic Fuels Corporation that was authorized to spend up to $80 billion subsidizing energy from shale oil and liquid fuels from coal. A truly excessive proposal that was also repealed.

The purpose of reciting this history is to remind the Senate of what has so often happened when we have taken up big energy bills in response to Middle East turmoil. We have made very big mistakes; very costly mistakes in judgment and policy. Let me review that list again; price controls on domestic oil; the Powerplant and Industrial Fuel Use Act; the windfall profit tax; the Energy Security Act of 1980; and the Synthetic Fuels Corporation.

These are pieces of comprehensive energy policies that failed miserably and have since been repealed. These policies were generated in the heat of war or in the malaise of economic collapse and were offered to the American public as ways to achieve that elusive goal of energy independence. They were designed to insulate us from the realities of the world energy economy. The National Energy Security Act of 1991 has germinated in that same climate of dependence hysteria, it is held out to us with that same promise of energy independence and it contains the same kinds of excesses we have so often voted for in the past.

ANWR AND DRAFT

One Member of the U.S. Senate testifying before the Environment and Public Works Committee said that voting

to make the Alaska National Wildlife Refuge a wilderness area is tantamount to restoring the draft. We either have oil and gas drilling in ANWR or we have young American men and women in the Persian Gulf risking their lives for access to foreign oil. We are told that is the choice.

If I believed for one minute that drilling the Alaska National Wildlife Refuge would keep the sons and daughters of America out of war, I would vote to drill it—every Senator would. But that is not the choice we face.

Let us look at the facts on ANWR. If there is oil in the Alaska refuge, we might be able to bring it to market by the year 2000. In the year 2000, it is projected that the U.S. will use between 17 and 19 million barrels of oil per day. About 6 million barrels of that oil will come from domestic wells. Six out of the 17 to 19 million barrels will come from domestic wells. About 70 percent will be imported; 70 percent of our oil will come from foreign sources.

If the Alaska refuge contains the 3.2 billion barrels of oil that the Department of Interior says and if it is produced at about 750,000 barrels per day, our dependence on foreign oil would be reduced to about 65 percent.

In the year 2000 we are 70 percent dependent without new Alaskan oil and 65-percent dependent if we drill the refuge and find the oil.

Does anybody believe that the difference between 70 percent dependence and 65 percent dependence is the difference between war and peace for America in the Middle East? The choice is not drilling ANWR or American bases in Saudi Arabia.

Drilling a national wildlife refuge to make the Nation energy independent is the kind of mistake, a mistake of excess, that we have so often made in energy policy. It is like setting aside $80 billion for the Synthetic Fuels Corporation. Or converting all our powerplants to coal and then converting them back to natural gas again and sending the bill to future generations.

ALTERNATIVE FUELS

There are other demonstrable mistakes of that type in this bill. For instance, this bill has a national goal of 30 percent alternative fuels in the transportation sector by the year 2010. That is an example of excess. One of the problems that goes with importing oil is a negative balance of trade. Importing a million barrels of oil per day imposes a $9 billion per year penalty in our trade balance. It is a cause for concern. As a nation we need to find ways to reduce that imbalance or offset it with exports.

But simply setting our sights on 30 percent alternative fuels does not qualify as a reasonable response to the problem. It would cost about $60 billion in capital investment to replace 1 million barrels per day of oil with natural gas. It would cost 80 billions of dollars—equivalent to the now repealed authorization for the Synthetic Fuels Corporation—to replace that million barrels of oil with ethanol or methanol. I should be all for that because it comes from corn in my State. And it would cost $240 billion in capital investment to replace 1 million barrels of oil per day with electric vehicles. Those costs are staggering. They are excessive. They are the very same excesses that we have voted for in the past and that have subsequently been repealed.

CAFE

I fear that if this bill comes up the Senate will be presented with another excess. That is a CAFE proposal that is beyond reason. Some will want to take the Corporate Average Fuel Economy Program from the current standard of 27.5 miles per gallon to 40 miles per gallon. I have no doubt that we can get to that number technically. I think we can do it with cars that are safe. we could do much better job on auto safety and highway safety than we are doing. And I also expect that some day much better fuel economy will become national policy because of our concern for the global environment and the impact of carbon dioxide on climate.

But that day is not today. The American public will not support a 40-miles-per-gallon standard in the name of energy security. By reaching for it we would risk undermining the CAFE program itself.

During most of its life, CAFE did not push the auto industry. The jump in oil prices did. Consumer preferences ran ahead of the CAFE numbers. That is not true today. As I say, I think CAFE regulations will some day play an important role in our efforts to respond to the global warming problem. And when we can make the case to the American public on that basis, we will have their support. But that day is not today.

If we try to reach for some excessive CAFE Program today and justify that reach on energy independence we will fail. It will be rolled back, if avoiding imported oil is the only justification. It will be another part of the energy policy that will be repealed.

TWO BIRDS IN BUSH DO NOT EQUAL ONE IN HAND

It may be said here on the floor that tough numbers for CAFE are a necessary companion to drilling ANWR. Somehow, the two of them together will prove that we are finally serious about energy independence. But two very large mistakes are not better than one. The willingness to reach for any option, however, excessive, to avoid dependence is not the definition of good energy policy.

We have a tendency to see our dependence on foreign oil as a sickness, as an addiction. Middle East oil is the heroin of the American economy. Whenever there is turmoil in the Middle East, we resolve to come to our senses and break this dependence.

We are willing to try the most extravagant cures to get well.

No scheme is too expensive.

Every nutball idea is a potential magic bullet.

The more exotic the solution—shale oil, fusion, hydrogen fuels—the more we are willing to spend to replace foreign oil.

That mentality has led use astray so many times in the past. And that is the mentality that continues to inform this bill. Excess in the name of energy independence has become the very test of sincerity.

There is a book that was published last Winter on the history of petroleum in the world economy. It is by the distinguished energy economist, Daniel Yergin. It is titled "The Prize. The Prize. The prize is 600 billion barrels of Middle East oil that can be produced for $2 per barrel. It is a treasure that can fuel prosperity for economies around the globe for a hundred years into the future. For most of the past 100 years, the United States has been the principal supplier of oil to the world. Texas was the Mideast of 1890, 1910, and 1930. But the reserves of Texas pale in comparison to the oil wealth found in the Persian Gulf.

It is not our oil. But the nations that own it want to sell it. Some of those nations are our friends and allies, more so today than a year ago. But even our enemies in the region are not trying to withhold their oil from the marketplace. It does them no good in the ground.

This is very cheap oil. Much less than a buck a gallon. It fueled the boom of the fifties and sixties in the United States. That is how we became dependent. In real term it is just as cheap today as it was then. It is much less expensive than many of our domestic alternatives. Much less expensive.

It may be that some here in the Senate think it makes sense to pay $2 a gallon for corn-derived ethanol or $3 gallon for liquid fuel from coal or $4 a gallon to avoid using fuel with some exotic conservation technology. That is the theory of this bill and some of the amendments we will see if this bill comes to the floor.

There has been much said today about whether Senators want to have an energy policy or not. It has been suggested that those who oppose cloture do not want an energy policy. Throughout that discussion there has been an underlying assumption that this Nation can only be considered to have an energy policy, if we have in place some mix of programs likely costing billions of dollars to taxpayers and consumers that is designed to end our dependence on foreign oil or for some Senators on oil altogether.

That is not my definition of an energy policy. And that is not a definition the American people are going to support when they understand the true

costs of the alternatives put forward in this bill.

I am not against an energy policy for this country.

I am for the strategic petroleum reserve.

I am for research and development on new technologies.

I am for alternative fuels in niche markets where they can have significant environmental payoffs.

I am for provisions in this bill that would encourage wiser energy use by the Federal Government.

Those are all elements of a national energy policy.

I pray for the success of the peace talks now occurring in Madrid. That, too, is also an essential part of an energy policy.

I am opposed to spending billions of taxpayer dollars and tens of billions of consumer dollars in the elusive quest for energy independence. That is not the only definition of an energy policy.

If there is a message to policymakers from Americans today, it is: "Don't repeat the mistakes of the past. Don't waste my time or my money." Mr. President, I respectfully request that our colleagues on the Energy Committee listen to that message. And I respectfully suggest that President Bush put all the Nation's creative resources to work on a national energy policy in light of the new world order in national and international relations, in trade and energy, in the Middle East, and today—in Madrid.

Mr. President, with gratitude to my colleague from Vermont, and to all who are staying in here on Halloween, I express my appreciation for his yielding to me and I yield the floor.

MORNING BUSINESS

Mr. BRYAN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein and that the matters considered in this period be placed at an appropriate place in the RECORD so as not to show any interruption in the statement of the distinguished junior Senator from Vermont.

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

FREE THE CLARKE NOMINATION

Mr. DOLE. Mr. President, I wish to take a minute to call my colleagues' attention to an editorial in today's Washington Post concerning the renomination of Robert Clarke as Comptroller of the Currency.

As the editorial correctly points out, Mr. Clarke was renominated by the President on January 23, 1991. Since then, America has won the Persian Gulf war; a coup failed in the Soviet Union; the President nominated and the Senate confirmed a Supreme Court Justice; we have passed a crime bill, a civil rights bill, and countless other pieces of legislation. But, apparently, there has not been time to hold more than two hearings on Mr. Clarke's nomination.

There has been time, however, for some to try to pin all the ills of the banking industry on Mr. Clarke. Nine months later, it is time for Mr. Clarke's critics to present their case, or to allow the nomination to proceed.

By allowing Mr. Clarke's nomination to twist in the wind, the Senate is sending mixed signals to an already fragile banking industry. What this industry needs now more than anything is certainty.

Let me quote directly from today's editorial:

> Thus far * * * when Mr. Clarke has been given an opportunity to respond directly and on the record * * * he has given a good account of himself and his stewardship of the OCC. * * * Before the Senate recesses, Senator Riegle should present his case, for or against Mr. Clarke, and then allow the committee to vote on this critical appointment.

Mr. President, I ask that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MAKE A DECISION ON MR. CLARKE

In his blast at Congress last week, President Bush took special aim at the Senate, where key administration appointments have languished for a number of months. Mr. Bush gave special mention to the problem of Comptroller of the Currency Robert Clarke, whose renomination has been pending before the Banking Committee since January. "In times of economic concern, we need the service of these people, and if members of the Senate don't like my nominees, then they should vote against them. But they should not stall progress," complained Mr. Bush. But the delay in action on Bob Clarke is not the fault of the confirmation process or rank partisanship. The delay is the handiwork of one senator—the chairman of the Banking Committee, Don Riegle (D-Mich.), and his influential staff.

Sen. Riegle's disenchantment with Mr. Clarke is no secret: He has publicly suggested that President Bush reconsider Mr. Clarke's reappointment. To his opponents on the committee, Mr. Clarke (1) is soft on bankers (having practiced regulatory banking law before coming to Washington from Texas in 1985); (2) doesn't like to take formal actions against improperly run banks; (3) takes shortcuts on bank examinations; and (4) prefers that banks operate under weaker capital standards.

To their mind, most of the costly bank failures of the past five years are largely Mr. Clarke's fault. That is the case they have been trying to build for the past several months. But after all that time, including two days of testimony from Mr. Clarke and a review of hundreds of OCC documents and bank records, Sen. Riegle apparently still doesn't feel his case is strong enough to allow the committee to debate and vote on the nomination.

We have said all along that Mr. Clarke is obliged to defend his record as comptroller, including his regulatory philosophy and the actions he has taken to enforce national banking laws and regulations. By taking liberties with Mr. Clarke's past statements and positions or by quoting him out of context it is possible to portray him as the source of all that ails the banking industry. Some of that, we fear, may be happening in this case.

Thus far, however, when Mr. Clarke has been given an opportunity to respond directly and on the record to Sen. Riegle's questions and concerns, he has given a good account of himself and his stewardship of the OCC. The discretion of the chair should not be abused. Before the Senate recesses, Sen. Riegle should present his case for or against Mr. Clarke and then allow the committee to vote on this critical appointment.

UNEMPLOYMENT COMPENSATION

Mr. DOLE. Mr. President, just very briefly on another matter that I know is of great importance to every Senator, that is unemployment benefits.

For some time now, in fact almost for 2½ months, the debate has been raging in the Congress and in the Senate not on whether or not we should extend benefits or provide extended benefits—that is a given on both sides—but whether or not those benefits should be paid for.

Bills have been presented. This Senator has a provision to provide 6 and 10 weeks. The senior Senator from Minnesota [Mr. DURENBERGER] and the junior Senator from Montana [Mr. BURNS] have another proposal that provides more weeks but they are paid for, as opposed to the plan submitted by my colleagues in the other party.

The President has said from the outset send me a bill that does not violate the budget agreement, send me a bill that is not a budget-buster, send me a bill that pays for itself and I will sign it. The President said that in a meeting I had with the President and other members of the Republican leadership 10 o'clock this morning. He made it very clear at the leadership meeting that he was very interested in reaching an agreement on an unemployment compensation bill.

He has simply asked to meet these three conditions:

First, let us make it short term.

Second, let us make it within the budget agreement.

And, third, no new taxes to finance it; we need to find other ways to pay for it.

Let me say that I have been encouraged by meetings I have had with the chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, and the chairman of the Senate Finance Committee, Senator BENTSEN. I have been encouraged that there is an effort underway—I understand there will be another meeting tomorrow by the Democratic leadership—to try to come together on some agreement among the Democratic leadership that they may then present to those of us on the Republican side. Based on the encouragement I received, at least I thought I had received in talking to Senator

BENTSEN, and I think I did receive in talking to Senator BENTSEN and Congressman ROSTENKOWSKI, I have been visiting with Congressman MICHEL, the Republican leader in the House, with the Secretary of Labor, Secretary Martin, and with the Director of the Office of Management and Budget, Mr. Darman.

In fact, we have had meetings all day long since 12 o'clock noon with a number of important officials from the Labor Department trying to consider different options. We prepared a number of options to meet the three tests: short term, within the budget agreement, and no new taxes to finance it.

We now have four options, four additional options, in addition to the original Dole proposal and in addition to the Durenberger-Burns proposal.

So I say to my colleagues on the other side, we would like to get this done. We believe it can be done. We believe we can take care of this in the same spirit.

We had bipartisan support of the civil rights bill that was finally voted on last night. If we can conclude an agreement on unemployment benefits, extended benefits for unemployed workers, men and women in every State in this Nation, and if we put our mind to it, we can do it before the end of next week.

So it is not going to be easy because my colleagues know when you get a tax bill in the Senate, anybody can offer tax amendments. There is a great incentive there to offer some amendment that cannot be voted down or that might embarrass somebody politically. But I am prepared to say if we can reach an agreement on this side of the aisle, we will pledge ourselves to fight off all amendments to make certain that the unemployment benefits can be paid as quickly as possible.

I say to my friends on the other side of the aisle, we are prepared to meet, prepared to discuss, prepared to negotiate. I speak also for the President of the United States.

I yield the floor.

CHINA'S WEAPONS MAFIA

Mr. HELMS. Mr. President, the boast of communism was that it was a people's government. There were some who believed that, but I do not think that anyone believes it any more. We have seen the collapse of communism in Eastern Europe. We have seen the collapse of communism in the former Soviet Union.

And I think that it will be not long before we see the collapse of communism in the People's Republic of China. The signs of the times are writ large. Indeed, one of the most important signs is that the dynastic Communist families that rule the so-called Peoples Republic are already making preparations to get out of the country, or to get their families out, before the inevitable collapse.

Moreover, the way that the dynastic Communist families are financing the proposed exodus is through corrupt arms deals with unstable regimes. This practice gives them funds to live abroad, to send their sons and daughters to universities abroad, and to prepare a secure haven for themselves when they themselves must flee.

For example, Deng Xiaoping's own son-in-law is one of the biggest arms dealers in Communist China. Communist Chinese President Yang Shangkum, who is reported to have ordered the troops to fire at Tianamen, also has a son-in-law. He used to be in the same arms export firm with Deng's son-in-law, but he is now away at the London School of Economics, where he is undoubtedly learning better marketing techniques. Yang's oldest son is also reported to be in the arms business.

Mr. President, we now know something of these Communist Chinese arms companies because Bill Triplett, a senior professional staff member of the Foreign Relations Committee reported on them in an article entitled "China's Weapons Mafia" in Sunday's Washington Post Outlook section.

There is a little history behind this article. Last summer I sent Bill out to the Far East with instructions to find out what could be disclosed about this murder-for-profit business. He did a lot of digging, spoke to a great number of people, and asked a lot of questions.

The results were startling. What is clear is that the Communist Chinese and the ruling elite know that the end is coming. Perhaps that is why we have what amounts to a fire sale of weapons of mass destruction to the Middle East. It seems as if almost anybody with the requisite cash can have his own nuclear weapons and delivery systems, courtesy of the Communist Chinese aristocratic clans.

Mr. President, we have the leverage to stop this activity. We can tell the Communist elite clans that there will be no sanctuary in the West for those who sell nuclear arms to the Middle Eastern dictators. We can make them understand that when the domestic revolution comes, the arms dealers will be turned over to the justice of the Chinese people. We can make them understand that their secret bank accounts will be frozen.

Mr. President, I ask unanimous consent that the article "China's Weapons Mafia" and an associated article, both by Mr. William C. Triplett II, from the Washington Post of October 27 be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 27, 1991]

CHINA'S WEAPONS MAFIA

(By William C. Triplett II)

Polytechnologies. Rainbow Development Corp. Kaili Corp. (a/k/a Carrie Enterprises.) The Lantian Corp. The China Great Wall Industry Corp. NORINCO. Nondescript, yet slightly romantic-sounding, the names are familiar in the global arms bazaar, where billions of dollars of weapons and lethal technology are bought, sold and transported each year in a booming trade that shows little sign of diminishing despite the end of the Cold War.

Seemingly nondescript corporations engage in everything from export of space launch services (Great Wall), to building armored cars (NORINCO), to advising on nuclear power development (Rainbow). All are key export-inport components of China's aggressive and highly profitable defense industry. This network of front companies and secretive international trading firms have one other thing in common: They are run for profit by China's ruling clans, the dynastic families that were disgraced in the Cultural Revolution but survived and thrive today.

In the 1980s, China emerged as a leading arms supplier to the Third World, signing agreements between 1983 and 1990 (worth more than $16 billion. Much of China's business was with Iran; Beijing became Tehran's biggest weapons supplier during the 1981–88 Iran-Iraq War, selling $4.8 billion in weapons and munitions to Iran in 1983–90. With that war over and Iran's economy in deep trouble, China must look elsewhere for major sales. But the clan-affiliated firms have shown a willingness to sell advanced weapons to some of the world's most ruthless rulers.

For example, according to the Far Eastern Economic Review, the Chinese have recently delivered to Syria the Transporter/Erector/Launcher (TELs) equipment associated with the M-9 series ballistic missile system. The M-9 is a modern, nuclear-capable, fully mobile missile with a range of 350 miles and comparable to the Soviet SS-23. Despite heavy U.S. diplomatic pressure, Syria and China agreed on the missile deal at a secret meeting in Beijing in May. Many here believe the missiles will be delivered after Congress recesses this fall to avoid exacerbating debate on Capitol Hill over most-favored-nation (MFN) trade status for China.

The Chinese also have admitted that this year they transferred M-11 ballistic missiles to Pakistan; the number is unknown. The M-11 is a modern, mobile, nuclear-capable missile with a shorter range but heavier payload than the M-9. The Arab press claims that China will make M-9 and M-11 missiles in Iran, perhaps as part of a 10-year military technology-transfer agreement Beijing and Tehran signed in January 1990.

U.S. experts have found the Chinese contributed significant nuclear technology to at least one of Saddam Hussein's clandestine nuclear weapons programs. Earlier this year it was revealed that the Chinese are constructing a nuclear facility in Algeria. British experts rate the facility at an estimated 40 mega-watts, enough to produce five atomic bombs per year when it begins operation.

In light of these and other sales in the Middle East, Washington proliferation specialists are stepping up analysis of the Chinese arms export system. The Defense Intelligence Agency (DIA) has identified 23 Chinese government-owned or -controlled firms through which nearly all arms sales are made. Congressional investigators say that with one exception, the organizations were set up in the 1980s as export companies for

the various armaments ministries and the Equipment (Armament) Department of the Chinese People's Liberation Army (PLA). As DIA noted in a recent compilation of Chinese defense efforts:

"The companies . . . are established and chartered to conduct business in the international market. Many have offices overseas. While they are profit-oriented and are the key means for defense complex foreign-exchange earnings, they are also the primary conduits for acquisition of new and advanced technologies."

According to the DIA account, the import-export complex is divided into "two main hierarchies . . . the uniformed services of the People's Liberation Army (PLA) and the defense-related ministries under direction of the State Council." There are 10 PLA-run companies and 12 affiliated with the ruling State Council. Coordinating both hierarchies is the Commission on Science, Technology and Industry for National Defense (COSTIND), which also operates its own advanced technology firm, the China New Era Corp., which engages in scientific exchanges and exhibitions and scouts for advanced technology. Analysts have identified relatives of numerous senior Chinese leaders among the officials of several of the most active firms. [See related story below.]

It is not entirely clear how each firm operates or relates to the other firms. Some, such as Polytechnologies Corp. and COSTIND, are pure middle-men, producing nothing themselves. Others, such as NORINCO, China Precision Machinery Import-Export Corp. and China Great Wall Industry Corp. either make hardware or provide services through middle-men, or directly to purchasers. Rainbow Development is active in the nuclear technology field, but it is unclear whether it is a middle man or has something of its own to transfer.

According to a Hong Kong source with detailed knowledge of China's weapons sales policies, until recently, the Bank of Credit and Commerce International (BCCI) was the bank of choice for the arms exporters. With its extensive Mideast operations and reputed money-laundering proclivities, BCCI would have been a natural fit for the Chinese. BCCI also operated in Beijing, the Shenzhen Special Economic Zone outside Hong Kong and in 27 branches in Hong Kong itself through what BCCI called the Bank of Credit and Commerce Hong Kong (BCCHK). Of a reported $400 million of Chinese government money in BCCHK accounts, several million dollars reportedly belonged to the Ministry of Aerospace Industry, the parent of the Chinese ballistic missile producers, the Chinese Precision Machinery Import-Export Corp. It is unclear what effect the BCCI scandal and the multiple investigations of the bank and its affiliates may have on Beijing's ability to smoothly arrange financing for insuring, storing and shipping weapons, or diverting money to bank accounts abroad.

What is clear is that China reaps huge profits from its foreign sales. According to three experts on China's defense establishment who wrote recently in International Security magazine, Polytechnologies alone made a net profit of $2 billion selling nuclear-capable CSS-2 ballistic missiles to Saudi Arabia. Even if the firm kept only 5 percent of the profit for itself and returned 95 percent to the PLA to develop the next generation of missiles, the company still would have garnered $100 million. Presumably, much of this would be available for the ruling clans.

But beyond an apparent agreement among the ruling factions about control of the export firms, mystery surrounds how profits are divided or deposited.

According to sources in Hong Kong and elsewhere, clan members put their arms profits to a variety of uses. First seems to be foreign travel. Since Chinese money is not convertible into hard currency, foreign currency, called "waihua," is very valuable, more so because few citizens inside the country have legal access to foreign money. Second, the profits may finance university education abroad for the children of the elite. Third, it may be used to import luxury goods, air conditioners and Toyotas for the clans. Finally, analysts say they believe the families have sent substantial sums of cash overseas. As the revelations in East Europe have shown since the collapse of party control there, such plunder is common in communist regimes. For the Chinese ruling cadres, there is yet another reason for secret stashes: As one experienced Hong Kong observer put it in 1988: "All the families suffered during the Cultural Revolution. They know they are unpopular and they are Chinese."

All of this makes a difficult dilemma for American policy makers. Most of the Middle Eastern recipients of Chinese arms sales are anti-democratic regimes that rose to power through force and violence and maintain themselves in the same manner. A number of these regimes have a history of assassination of American government officials and sponsorship of terrorism aimed at Americans abroad. As the case of Iraq shows, some regimes are reaching the point of technological breakthrough for building weapons of mass destruction and the means to deliver them.

Realistic control of Chinese sales of weapons of mass destruction and their delivery systems to the Middle East is already very difficult and likely to grow worse. Indeed, Secretary of State James A. Baker III reportedly may soon go to Beijing to take up the issue.

But with the Chinese leadership's personal rice bowls at stake, continuing duplicity and evasion of international responsibility seems likely. U.S. efforts to persuade the Chinese leadership to exercise restraint in arms sales to the Middle East has sometimes led to ludicrous scenes in which American officials appeal to high-ranking Chinese for restraint only to learn later that the Chinese official has offspring among DIA's list of arms exporters.

The situation is very likely to grow worse in the short to medium term. As the end approaches for the octogenarians who guide China today, those who derive position and authority from the elder leaders will be tempted to make quick bucks while they can.

The Chinese are talking about possibly signing the Nuclear Non-Proliferation Treaty (NPT) and joining the Missile Technology Control Regime (MTCR), but they have a dubious record in living up to international arms control agreements they have already signed. And, as Saddam has demonstrated to the world, it is possible to be a signatory to the NPT, have inspections by the International Atomic Energy Agency and still pursue several secret nuclear weapons programs.

In a report last summer, defense specialist Richard F. Grimmett of the Congressional Research Service wrote that "it is not clear whether China will be able to sustain its level of arms sales in the Near East region now that the Iran-Iraq war has ended and it is a party to discussions aimed at regulating arms transfers to this region." But Grimmett cautioned, "Given China's need and desire to obtain hard currency, it seems prepared to pursue arms-sales opportunities it deems appropriate whenever they present themselves."

As a practical matter, if the United States and its allies wish to have any serious influence on Chinese arms sales, they will have to find ways to severely increase the downside risk of such sales. Turning up the heat could include economic sanctions, as are now under consideration by the Congress, or a decision by the Western industrial powers, including Japan, to sharply restrict high technology flows to China. Finally, the West could very quietly inform the clans that, come the democratic revolution in China, they will not find refuge in the West if they have contributed to the nuclear arming of Middle Eastern dictators.

[From the Washington Post, Oct. 27, 1991]

NUKE CRUX: "CLANS"

When tracing the hidden beneficiaries of China's global arms trade, it doesn't hurt to know some genealogy.

China's paramount leader, Deng Xiaoping, openly refers to the ruling hierarchy of the People's Republic as "clans." Former U.S. ambassador to China James Lilley has called the leadership a "decaying dynasty." Others call them Communist aristocrats.

As in any aristocracy, kinship to the founders is crucial to claims of legitimacy in dividing benefits. In China, legitimacy rests where it has since the founding of the state in 1949—upon Mao Zedong.

The nation's three leading figures—Deng Ziaoping himself, together with Chen Yun, who is chairman of the Standing Committee of the Party Central Advisory Commission, and Yang Shangkun, PRC President and First Vice Chairman of the Central Military Commission—all attended a conference in 1935 when Mao was chosen leader of the Communist Party. This history has helped the inner leaders insure that their own families have prospered.

The great Communist families reflect what some analysts call "pre-modern outlook": They see their existence and the workings of the Chinese state chiefly in terms of the Mafia-like structures within which they live and prosper. They are looking out for themselves first, no matter what political rules they may apply to the Chinese masses.

Officials of China's 23 known military import-export firms may draw salaries from the firms, but a substantial amount of the firms' profit is considered money belonging to the clan which they represent.

Some of the clan linkage in the arms complex have surfaced. For example, by late 1988, Polytechnologies officials included Senior Col. He Ping (Deng Xiaoping's son-in-law), Wang Xiaochoa (Yang Shangkun's son-in-law, Wang Zihua (then-Communist Party general secretary Zhao Ziyang's son-in-law) and Wang Jun (PRC Vice President Wang Zhen's son). A source in Hong Kong said these officials held the same hierarchical relationship to each other as their relative/patrons held in the PRC political and military hierarchy. One source told me that Senior Col. He Ping and his wife Deng Rong spent several years in the Chinese Embassy in Washington where they studiously cultivated senior U.S. government officials.

There are other examples: COSTIND is dominated by Maj. Gen. (Tech) Nie Li, the daughter of China's only living marshal, Nie Rongzhen. She is deputy director of the Science and Technology Committee of

COSTIND and her husband, Lt. General Ding Henggao, is COSTIND's chairman. President Yang Shangkun's eldest son is reputed to be an official of COSTIND, as is Zhang Pin, a son of former defense minister Zhang Aiping. Other great clans represented in COSTIND are two different Ye families—Ye Chumei, daughter of the late Marshal Ye Jianying, and Ye Zhengda, son of the late Gen. Ye of the PLA New Fourth Army.

General He Pengfei, son of the late Marshal He Long, is the director of the PLA's Equipment (Armament) Department which, in turn, controls Polytechnologies. He is about to be replaced by Senior Col. He Ping and presumably will be rewarded with a suitable promotion. Both He Ping and He Pengfei are expected to be promoted to the Party General Committee at next year's 14th National Congress of the Chinese Communist Party.—WILLIAM C. TRIPLETT II.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

ANNUAL REPORTS UNDER THE HIGHWAY SAFETY ACT AND THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 92

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying reports; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

It is my privilege to provide you with the annual reports on activities under the Highway Safety Act and the National Traffic and Motor Vehicle Safety Act, both enacted in 1966. These reports provide a summary of our activities during calendar year 1990 and of the National Highway Traffic Safety Administration's priority plan for the next 3 years. The plan will be an evolving guideline for the agency's safety activities to improve motor vehicle and traffic safety.

The plan includes motor vehicle rulemaking on the crashworthiness of passenger cars, light trucks, and vans; vehicle rollover stability; and safety improvements in heavy trucks, school buses, and child safety seats.

It also calls for initiatives to promote State laws and programs to increase safety belt use, motorcycle helmet use, and to discourage drunk and drugged driving.

The report on motor vehicle safety includes the annual reporting requirement in title I of the Motor Vehicle Information and Cost Savings Act of 1972.

In the Highway Safety Acts of 1973, 1976, and 1978, the Congress expressed its special interest in certain aspects of traffic safety that are addressed in the volume on highway safety.

I am pleased to inform you that 1990 was a year of significant gains in traffic safety. The traffic fatality rate, the accepted measure of risk on the road, was 2.1 deaths per 100 million vehicle miles traveled, the lowest in history and down 36 percent since 1980. Safety belt use is also higher than ever, with 49 percent of Americans buckling up, and drunk driving fatalities have declined significantly.

There is good news for Americans in virtually every critical part of the highway safety picture. The decline in the fatality rate is especially encouraging and means that we are able to drive with less risk. The dramatic increase in safety belt use and public concern about drunk driving have translated into thousands of lives saved and injuries avoided.

The progress we have made is, of course, no consolation to the relatives and friends of the 44,500 people who, despite the safety advances and greater public awareness, lost their lives in traffic accidents in 1990.

As we continue to pursue highway and motor vehicle safety programs that are most effective in preventing these deaths and injuries, I am convinced that significant progress will be made through the combined efforts of government, industry, and individual motorists.

GEORGE BUSH.

THE WHITE HOUSE, *October 31, 1991.*

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 1046) to amend title 38, United States Code, to increase, effective as of December 1, 1991, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3543. An act making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes.

At 1:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 3371. A act to control and prevent crime;

H.J. Res. 281. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the Mongolian People's Republic; and

H.J. Res. 282. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the People's Republic of Bulgaria.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3543. An act making dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for incremental costs of "Operation Desert Shield/Desert Storm" for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, October 31, 1991, he had presented to the President of the United States the following enrolled bill:

S. 1823. An act to amend the Veterans' Benefit and Services Act of 1988 to authorize the Department of Veterans Affairs to use for the operation and maintenance of the National Memorial Cemetery of Arizona funds appropriated during fiscal year 1992 for the National Cemetery System.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1322. A bill to amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 61. A joint resolution to designate June 1, 1992, as "Kentucky Bicentennial Day".

S.J. Res. 81. A joint resolution to designate the periods commencing on December 1, 1991, and ending on December 7, 1991, and commencing on November 29, 1992, and ending on December 5, 1992, as "National Home Care Week".

S.J. Res. 96. A joint resolution to designate November 19, 1991, as "National Philanthropy Day".

S.J. Res. 145. A joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week".

S.J. Res. 157. A joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week".

S.J. Res. 164. A joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992,

through October 17, 1992, each separately as "National Job Skills Week".

S.J. Res. 174. A joint resolution designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month".

S.J. Res. 176. A joint resolution to designate March 19, 1992, as "National Women in Agriculture Day".

S.J. Res. 180. A joint resolution designating December 1 through 7, 1991, as "Geography Awareness Week".

S.J. Res. 188. A joint resolution designating November 1991, as "National Red Ribbon Month".

S.J. Res. 197. A joint resolution acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 25, 1991, as "National Military Families Recognition Day".

S.J. Res. 206. A joint resolution to designate November 16, 1991, as "Dutch-American Heritage Day".

S.J. Res. 217. A joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian".

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Alice M. Batchelder, of Ohio, to be U.S. circuit judge for the Sixth Circuit;

Harold R. DeMoss, Jr., of Texas, to be U.S. circuit judge for the Fifth Circuit;

Rebecca F. Doherty, of Louisiana, to be U.S. district judge for the Western District of Louisiana;

Denis R. Hurley, of New York, to be U.S. district judge for the Eastern District of New York;

Barbara A. Caulfield, of California, to be U.S. district judge for the Northern District of California;

Ronald E. Longstaff, of Iowa, to be U.S. district judge for the Southern District of Iowa;

John W. Lungstrum of Kansas, to be U.S. district judge for the District of Kansas;

Terry R. Means, of Texas, to be U.S. district judge for the Northern District of Texas;

Robert Q. Whitwell, of Mississippi, to be U.S. attorney for the Northern District of Mississippi for the term of 4 years;

William D. Hyslop, of Washington, to be U.S. attorney for the Eastern District of Washington for the term of 4 years;

Kevin C. Potter, of Wisconsin, to be U.S. attorney for the Western District of Wisconsin for the term of 4 years;

Michael S. Gelacak, of Virginia, to be a member of the U.S. Sentencing Commission for a term expiring October 31, 1997.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LAUTENBERG:

S. 1898. A bill to amend the Marine Mammal Protection Act of 1972 to provide for examination of the health of marine mammal populations and for effective coordinated response to strandings and catastrophic events involving marine mammals; to the Committee on Commerce, Science, and Transportation.

By Mr. MITCHELL (for Mr. WOFFORD):

S. 1899. A bill to encourage youth receiving Federal assistance for higher education or job training to serve their communities and their country, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 1900. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10 percent tax on the earned income (and only the earned income) of individuals, to repeal the estate and gift taxes, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. HATCH):

S. 1901. A bill to amend title 5, United States Code, to make election day a legal public holiday, with such holiday to be known as "Democracy Day"; to the Committee on the Judiciary.

By Mr. ADAMS (for himself and Mr. KENNEDY):

S. 1902. A bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SIMON (for himself, Mr. MACK and Mr. DECONCINI):

S.J. Res. 224. Joint resolution designating March 1992 as "Irish-American Heritage Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURENBERGER (for himself and Mr. WELLSTONE):

S. Res. 212. Resolution commending the Minnesota Twins as the 1991 World Champions of baseball; submitted and read.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 1898. A bill to amend the Marine Mammal Protection Act of 1972 to provide for examination of the health of marine mammal populations and for effective coordinated response to strandings and catastrophic events involving marine mammals; to the Committee on Commerce, Science, and Transportation.

MARINE MAMMAL HEALTH AND STRANDING RESPONSE ACT

• Mr. LAUTENBERG. Mr. President, today I am introducing the Marine Mammal Health and Stranding Response Act. This bill will require the National Oceanic and Atmospheric Administration [NOAA] to establish a marine mammal stranding program and a program to assess the health of marine mammals. The bill has been introduced in the other body by Congressman TOM CARPER of Delaware. Congressman CARPER has an extensive record of protecting our marine environment. I commend him for taking this initiative.

Mr. President, our citizens have a long-running love affair with marine mammals. We enjoy watching these intelligent and graceful animals perform in marine mammal parks, we take boat trips to watch whales, porpoises, and seals in their native environments, we forced tuna fishermen to stop using fishing techniques which killed porpoises and we were gripped as we watched the extraordinary efforts made to save three whales trapped by the expanding ice off Alaska a few years ago.

But in 1987 and 1988, we watched with dismay as at least 750 bottlenose dolphins died off the east coast. Over 10 percent of those died in New Jersey despite the heroic efforts of Bob Schoelkopf and others at the Marine Mammal Stranding Center in Brigantine, NJ. But these efforts were hampered by a lack of resources, an emergency response program, a marine mammal tissue bank, and protocols for collecting marine mammal tissues from diseased or dead marine mammals. And a lack of baseline data hampered efforts to determine the cause of these deaths.

The President's fiscal year 1992 budget included $500,000 for NOAA for the establishment of a tissue bank and a stranding network for marine mammals. The NOAA budget document provides the rationale:

> A lack of baseline data on levels of contaminants and toxins in marine mammals and other protected species has limited NOAA's ability to identify the causes and take necessary actions in response to strandings and die-offs that occur periodically. . . . In the event of subsequent catastrophic occurrences, stored tissues can be analyzed so comparisons can be made to present and past conditions as an indicator of changes in environmental conditions which could help define causes of these phenomena. . . . This would make it possible to use this source of information more effectively to improve our understanding of the biology of these species and to aid the recovery efforts.

The other body rejected this proposal but the Senate Commerce, Justice, State appropriations bill included the requested funding at my request. The Congress ultimately agreed to provide $250,000 to initiate this program.

The Marine Mammal Health and Stranding Response Act would authorize these health and stranding efforts and ensure that we are prepared to respond to and understand strandings and unusual events affecting marine mammals. It would establish:

First, a marine mammal stranding response program to rescue marine mammals, gather data on marine mammal strandings, and establish protocols for collecting marine mammal tissue;

Second, a marine mammal emergency response program to respond to massive strandings; and

Third, a marine mammal tissue bank to store marine mammal tissue to study disease and pollutant levels in marine mammals.

Mr. President, I urge my colleagues to support this legislation. And I ask unanimous consent that a copy of the bill and a section-by-section analysis be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1898

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 "Marine Mammal Health and Stranding Response Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is currently no systematic program for the assessment of the health and health trends of marine mammal populations along the coasts and waterways of the United States;

(2) insufficient understanding of the connection between marine mammal health and the physical, chemical, and biological parameters of their environment prevents an adequate understanding of the causes of marine mammal strandings and unusual mortality events;

(3) an accurate assessment of marine mammal health and health trends, causes of marine mammal strandings, and reasons for unusual mortality events cannot be made without adequate baseline data on the health and life histories of marine mammals and the environment in which they live;

(4) a systematic assessment of the presence, levels, and effects of potentially harmful contaminant on marine mammals would provide a better understanding of the causes of marine mammal strandings and unusual marine mammal mortality events;

(5) responses to marine mammal strandings and unusual mortality events are often uncoordinated, and the lack of sufficient contingency planning precludes adequate determination of the causes of strandings and unusual mortality events;

(6) standardized methods for the reporting of stranded, dying, dead, or otherwise incapacitated marine mammals would greatly assist in the determination of the causes of marine mammal strandings and unusual mortality events and enhance general knowledge of these species;

(7) the lack of a formal system for the collection, preparation, and archiving of, and providing access to, marine mammal tissues hinders efforts to determine the health of marine mammals and develop baseline data; and

(8) information on marine mammals/ including results of analyses of marine mammal tissues, should be broadly available to the scientific community through a marine mammal data base.

SEC. 3. MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM.

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following new title:

"TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM

"SEC. 301. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish in accordance with this title a program for examining marine mammal health and for effectively coordinating responses to strandings and unusual mortality events, which shall be known as the 'Marine Mammal Health and Stranding Response Program'.

"(b) PURPOSES.—The purposes of the Program shall be the following:

"(1) Ensure rapid and effective response to strandings and unusual mortality events.

"(2) Provide baseline data on the health of marine mammals.

(3) Facilitate the identification of marine mammal health trends.

(4) Facilitate correlation of the health of marine mammals with physical, chemical, and biological environmental parameters.

"SEC. 302. STRANDING RESPONSE PROGRAM.

"(a) IN GENERAL.—The Secretary, and the Secretary of the Interior, as appropriate, in consultation with the Marine Mammal Commission, shall establish as part of the Program a stranding response program.

"(b) PURPOSES.—The purposes of the stranding response program shall be the following:

"(1) Provide for the rescue and rehabilitation of live stranded marine mammals, commensurate with sound conservation practices.

"(2) Working in conjunction with the Smithsonian Institution, gather and analyze data, by region, on the species, numbers, conditions, and causes of illness or death of stranded marine mammals, and any other appropriate life history information.

"(3) Establish criteria and provide for the collection, preservation, labeling, and transportation of marine mammal tissues for physical, chemical, and biological analyses and for archiving in the Tissue Bank as established in section 305.

"SEC. 303. EMERGENCY RESPONSE PROGRAM.

"(a) EMERGENCY RESPONSE GROUP.—

"(1) ESTABLISHMENT.—The Secretary, in cooperation with the United States Fish and Wildlife Service and the Marine Mammal Commission, shall establish an emergency response group of marine science and marine conservation experts, which the Secretary shall utilize to respond to marine mammal emergencies or unusual mortality event.

"(2) FUNCTIONS.—The emergency response group established under this subsection shall—

"(A) assist the Secretary in determining when a marine mammal emergency or an unusual mortality event is occurring;

"(B) develop contingency plans in accordance with subsection (b) for responding to marine mammal emergencies and unusual mortality events;

"(C) assist the Secretary in formulating a response plan for particular marine mammal emergencies and unusual mortality events; and

"(D) identify individuals or organizations at a regional or local level, who could, in times of marine mammal emergencies or unusual mortality events, assist the Secretary in implementing a coordinated and effective response.

"(b) MARINE MAMMAL EMERGENCY RESPONSE CONTINGENCY PLANS.—

"(1) IN GENERAL.—The emergency response group established under this section shall develop, and the Secretary shall issue contingency plans for responding to marine mammal emergencies and unusual mortality events.

"(2) CONTENTS.—The contingency plans shall—

"(A) be designed to ensure rapid and effective response to marine mammal emergencies and unusual mortality events, to maximize the possibility of identifying—

"(i) the cause or causes of such emergencies and events;

"(ii) the effect of such emergencies and events on populations of marine mammals;

"(iii) the roles played by physical, chemical, and biological factors in such emergencies and events; and

"(B) identify and, by means approved by the Secretary, ensure the availability of persons, facilities, and other resources necessary to conduct that response.

"(c) MARINE MAMMAL EMERGENCY RESPONSE CONTINGENCY FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund to be known as the 'Marine Mammal Emergency Response Contingency Fund', which shall consist of amounts deposited into the Fund under paragraph (3).

"(2) USES.—Amounts in the Fund—

"(A) shall be available for use by the Secretary in such amounts as are provided in appropriations Acts to compensate persons for costs incurred in acting, in accordance with contingency plans issued under subsection (b), in response to emergencies involving strandings or unusual mortality events; and

"(B) shall remain available until expended.

"(3) DEPOSITS INTO THE FUND.—There shall be deposited into the Fund—

"(A) amounts appropriated to the Fund, or otherwise for marine mammal emergency response purposes; and

"(B) amounts received by the United States in the form of gifts, devises, and bequests under section 304.

"SEC. 304. MARINE MAMMAL EMERGENCY RESPONSE DONATIONS.

"For purposes of carrying out sections 203 and 303, the Secretary may accept, solicit, and use the services of volunteers, and may accept, receive, hold, administer, and use gifts, devises, and bequests.

"SEC. 305. NATIONAL MARINE MAMMAL TISSUE BANK AND TISSUE ANALYSIS

"(a) TISSUE BANK.—

"(1) IN GENERAL.—The Secretary shall coordinate facilities for the storage, preparation, examination, and archiving of marine mammal tissues, which shall be known as the 'National Marine Mammal Tissue Bank'.

"(2) ACCESS TO TISSUE BANK.—The Secretary shall establish criteria for access to marine mammal tissues in the Tissue Bank which ensure appropriate use of the material by governmental and nongovernmental scientific researchers.

"(3) GUIDANCE FOR MARINE MAMMAL TISSUE COLLECTION, PREPARATION, AND ARCHIVING.—The Secretary shall issue guidance on marine mammal tissue collection, preparation, archiving, and quality-control protocols that will ensure—

"(A) appropriate and uniform methods and standards for those activities to ensure confidence in marine mammal tissue samples used for research; and

"(B) documentation of procedures used for collecting, preparing, and archiving those samples.

"(b) TISSUE ANALYSIS.—

"(1) IN GENERAL.—The Secretary, in consultation with other appropriate Federal and State agencies and appropriate private and academic institutions and in accordance with guidance issued under paragraph (2) shall monitor and determine the levels of, and if possible the effects of, potentially harmful contaminants present in representative species and populations of marine mammals in United States coastal waters, using the most effective and advance diagnostic technologies and tools practicable.

"(2) GUIDANCE FOR MARINE MAMMAL TISSUE ANALYSIS.—The Secretary shall issue guidance on marine mammal tissue analysis and quality assurance protocols that will ensure uniformity in techniques and data reporting for such analysis.

"(c) DATA BASE.—The Secretary shall develop and maintain a central data base which will ensure an effective means for tracking and assessing data on marine mammals, including, but not limited to, relevant data on all samples collected for and maintained in the Tissue Bank.".

SEC. 4. DEFINITIONS.

Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended—

(1) in paragraph (11)—

(A) by striking "The Term" and inserting "(A) Except as provided in subparagraph (B), the term"; and

(B) by adding at the end of the paragraph the following:

"(B) In title III, the term 'Secretary' means the Secretary of Commerce."; and

(2) by adding at the end the following new paragraphs:

"(15) The term 'Fund' means the Marine Mammal Emergency Response Contingency Fund established by section 303(c).

"(16) The term 'Program', as used in title III, means the Marine Mammal Health and Stranding Response Program established under that title.

"(17) The term 'Tissue Bank' means the National Marine Mammal Tissue Bank established under section 305(a).

"(18) The term 'unusual mortality event' means a die-off of marine mammals that either by virtue of the number of animals involved, the species of animals involved, the location of the stranded animals, or the duration of the die-off, constitutes an unusual event.

"(19) The term 'stranding' means a marine mammal event wherein—

"(A) a marine mammal is dead and—

"(i) is on a beach or shore of the United States, or

"(ii) is in the water within the exclusive economic zone of the United States; or

"(B) a marine mammal is alive and—

"(i) is on a beach or shore of the United States and is unable to return to the water, or

"(ii) is in water within the exclusive economic zone of the United States which is so shallow that the marine mammal is unable to return to its natural habitat under its own power."

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

Section 109(h) of the Marine Mammal Protection Act (16 U.S.C. 1379(h)) is amended by adding at the end the following:

"(4) There is authorized to be appropriated to the Department of Commerce for the purposes of title III an amount not to exceed $500,000 for each of the fiscal years 1992 and 1993. An additional $500,000 is authorized to be appropriated to the Department of Commerce in fiscal year 1992 for the Fund to be available until expended to carry out the purposes of section 303.".

SECTION-BY-SECTION SUMMARY OF MARINE MAMMAL HEALTH AND STRANDING RESPONSE ACT

Section 1. Short title.

Section 1 designates as the short title of this legislation the "Marine Mammal Health and Stranding Response Act".

Section 2 sets forth Congressional findings regarding the lack of effective programs to assess the health of marine mammals and to react to strandings and unusual marine mammal mortality events.

Sec. 3. Marine mammal health and stranding response program.

Section 3 would establish a new Title III of the Marine Mammal Protection Act, creating the Marine Mammal Health and Stranding Response Program. The new title as divided into the following sections:

Section 301. Establishment of program.

Section 301(a) would require the Secretary of Commerce to establish a health and stranding program. Subsection (b) states that the purposes of the program are to: 1) ensure rapid and effective response to strandings and unusual mortality events affecting marine mammals; 2) provide baseline data on the health of marine mammals; 3) facilitate the identification of marine mammal health trends; and 4) facilitate the correlation of the health of marine mammals with relevant environmental parameters.

Section 302. Stranding Response Program.

Section 302(a) would require the Secretary of Commerce and the Secretary of the Interior, in consultation with the Marine Mammal Commission, to establish a stranding response program as part of the overall health and stranding program established by Title III. The purpose of the stranding response program, as set out in section 302(b) are to: 1) provide for the rescue and rehabilitation of live stranded marine mammals; 2) gather and analyze data, in conjunction with the Smithsonian Institution, on species, numbers, conditions, and causes of illnesses or death of stranded marine mammals, and any other appropriate life history information; and 3) establish criteria for the collection, preservation, labelling, and transportation of marine mammal tissues for analysis and for archiving in the tissue bank created in section 305.

Section 303. Emergency response program.

In order to address the different problems represented by massive strandings and unusual mortality events involving marine mammals, Section 303(a) would require the Secretary of Commerce, in cooperation with the United States Fish and Wildlife Service and the Marine Mammal Commission, to establish an emergency response group of marine science and marine conservation experts, which the Secretary of Commerce would utilize to respond to marine mammal emergencies and unusual mortality events. The response group would: A) assist the Secretary in determining when a marine mammal emergency or an unusual mortality event is occurring; B) develop contingency plans for responding to emergencies and unusual mortality events; C) assist the Secretary in formulating a response plan for particular emergencies and mortality events; and D) identify individuals and organizations who could assist in implementing coordinated and effective responses.

Subsection (b) would require that the emergency response group develop, and the Secretary issue, contingency plans to ensure rapid and effective response to emergencies and unusual mortality events. These plans would be designed to maximize the possibility of identifying—in the case of these emergencies and events: i) their cause or causes; ii) their effects on populations of marine mammals; and iii) the roles played by physical, chemical and biological factors. The plans would also identify and ensure the availability of persons, facilities and other resources necessary to conduct the response.

Subsection (c) would establish a "Marine Mammal Emergency Response Contingency Fund" which would be used by the Secretary to compensate persons for costs incurred in responding to emergencies and unusual mortality events. The Fund would be composed of appropriated funds and gifts.

Section 304. Marine mammal emergency response donations.

Section 305 would permit the Secretary to accept, solicit, and use the services of volunteers, and to accept and use gifts, devises, and bequests.

Section 305. National marine mammal tissue bank and tissue analysis.

Section 305(a) would require the Secretary to coordinate facilities—to be known as the "National Marine Mammal Tissue Bank"—for the storage, preparation, examination, and archiving of marine mammal tissues. In keeping with the establishment of the tissue bank, the Secretary is directed to develop criteria for access to the tissue bank by scientific researchers, and to issue protocols on tissue collection, preparation archiving and quality control to ensure appropriate and uniform methods and to inspire confidence in the quality of tissue samples used in research.

Subsection (b) would require the Secretary, in consultation with other appropriate Federal and State agencies and appropriate private and academic institutions, to monitor and determine the levels of—and if possible, the effects of—potentially harmful contaminants present in representative species and populations of marine mammals in U.S. coastal waters. To ensure uniformity in tissue-analysis techniques and data reporting, the Secretary is directed to develop appropriate tissue analysis and quality assurance protocols.

Subsection (c) would direct the Secretary to develop and maintain a central data base to ensure an effective means for tracking and assessing data on marine mammals, including relevant data on all samples contained in the tissue bank.

Sec. 4. Definitions.

Section 4 of the bill defines the following terms: Secretary (meaning the Secretary of Commerce), Fund (the Contingency Fund—section 303(c)), Program (the Marine Mammals Health and Stranding Response Program), tissue bank (see section 305), unusual mortality event (unusual die-off of marine mammals), and stranding (dead marine mammals on beach or in water; live marine mammals on shore or in water so shallow they cannot return to their natural habitat under their own power).

Sec. 5. Authorization of appropriations.

Section 5 would authorize an appropriation to the Department of Commerce for the purposes of this new Title III of up to $500,000 for fiscal years 1992 and 1993. The section would also provide an additional $500,000 for the Department of Commerce in fiscal year 1992 to be available until expended for the contingency fund established in section 303.●

By Mr. HELMS:

S. 1900. A bill to amend the Internal Revenue Code of 1986 to repeal the income taxation of corporations, to impose a 10-percent tax on the earned income—and only the earned income—of individuals, to repeal the estate and gift taxes, and for other purposes; to the Committee on Finance.

TITHE TAX ACT OF 1991

Mr. HELMS. Mr. President, during my 19 years in the Senate, I have made clear my belief that it is imperative for Congress to overhaul the Federal income tax system. The Internal Revenue Code of 1954 is a disaster. It is a

burdensome set of laws that is widely regarded—and rightly so—as unfair.

Several years ago, I had the privilege of visiting with Jim and Karen Quick, a delightful young couple from Greensboro, NC. At that time, Karen was a 12-year veteran of the Internal Revenue Service.

I have spoken before in the Senate of Karen's award-winning essay on tax policy entitled "Tax Simplification: Let's Play Flat Ball." To refresh my colleagues' memories, in her essay, Karen compares U.S. tax laws to a frustrating ball game with constantly changing rules and few winners.

"Americans are tired of playing Bracketball," she writes. "One of the most infuriating aspects of 'Bracketball' is the constant movement of the goal line. When the players get near it, the officials move it." The solution she proposes is "a simple, fair, effective game called 'Flatball.' "

Mr. President, I ask unanimous consent that a copy of Karen's essay be printed in the RECORD at the conclusion of my remarks, and I recommend that Senators take the time to read and consider her thoughts.

Mr. President, the convoluted nature of the Nation's tax laws has caused the American people to lose faith in their Government. Most are convinced that the complexity of the tax laws may be a disguise for unfairness and inequity.

That is why, Mr. President, I had mixed feelings about the Tax Reform Act of 1986. On the one hand, Congress made a significant improvement by lowering the tax rates and reducing the number of brackets. On the other hand, many provisions were included simply to raise revenue in order to keep the bill revenue neutral—changes based neither on logic nor on sound tax policy. The net result left our tax laws even more complex and created a number of problems for various sectors of the economy.

Mr. President, the key to sustained and vigorous economic growth lies in the adoption of policies aimed at reducing marginal tax rates and stimulating investment in the private sector of our economy. The current tax system offers little hope of attaining these ends. On the contrary, the system we have now tends to penalize productivity and encourage tax evasion.

That is why I have concluded that a flat rate tax is the only fair solution to the problem created by the existing tax system and I am today introducing a 10-percent flat tax bill. The concept is fair. It is proportionate. It will work—and, more importantly, work simply.

This is not a new idea, but it is an idea which can and will be a starting point for a continued comprehensive study of our ever-complex Tax Code. The bill is similar to legislation I offered in the 97th, 100th, and 101st Congresses. Companion legislation has been introduced in the House of Representatives by my distinguished friend and colleague from Illinois, Representative PHIL CRANE.

First, my bill would eliminate the income tax on corporations. Congress must recognize the economic reality that corporations don't pay taxes—people do. Corporations simply pass their tax bills on to consumers in the form of higher prices and to workers in the form of reduced wages. This burden falls most heavily on the poor because the poor spend a larger percentage of their income on consumer goods.

The corporate income tax is also passed on to shareholders in the form of reduced dividends and reduced corporate savings and investment. Since pension plans are major shareholders, the corporate tax can drastically reduce potential pension benefits to workers.

Obviously, Mr. President, reduced corporate savings and investment have a negative impact on economic growth and thus reduce employment opportunities. This constitutes a further hidden tax on American workers.

Perhaps most importantly, Mr. President, elimination of the corporate income tax will promote efficiency in the market because all businesses will be placed on a level playing field. Tax considerations will no longer affect business decisions. Furthermore, elimination of this cost to business will also make U.S. business more competitive in the world market thereby encouraging new exports and creating new jobs.

Second, this bill reforms the income tax on individuals and by so doing, will reduce the amount of tax paid by most Americans. The bill would eliminate all current deductions, credits, and exemptions. It would provide a single exemption of $10,000 per taxpayer—to be adjusted annually for inflation—and impose a 10-percent tax on all earned income.

Mr. President, the exemption from taxation of the first $10,000 of earned income for each taxpayer will provide relief for low income individuals while also providing an incentive for individuals to enter the work force. The flat 10 percent rate eliminates the disincentive for one to increase one's income that results with a highly progressive system.

The bill defines "earned income" as the compensation one receives for performing work. It includes wages, salaries, fees, and fringe benefits. It does not include passive income—such as capital gains—interest income, and dividends. Furthermore, while fringe benefits are taxable, the bill eliminates valuation problems by valuing all fringe benefits at the actual cost to the employer of providing the benefits.

Mr. President, implementation of a 10 percent flat tax will have a profound effect on the economy in several ways. First, it will promote growth by increasing incentives for work, investment, and production through lower marginal rates. The increased savings will push interest rates down and thus reduce the cost of capital.

Second, it will stimulate economic growth through the elimination of tax on capital gains. This will encourage investment and expansion of capital funds, which will lead to more businesses and more jobs.

Third, by eliminating the tax on dividends, a flat tax will eliminate the penalty for investing in stock and will stimulate greater capital availability for economic growth.

Fourth, a flat tax brings greater efficiency to the economy by eliminating preferences in the Tax Code that interfere in economic decisions.

Finally, it will simplify the income tax system and enhance its fairness and equitibility. If we can simplify our tax system so that every American can fill out his or her income tax on the back of a postcard, we would put an end to the huge and burdensome tax avoidance industry.

Our tax system has become so complex, economically counterproductive, outmoded, and riddled with exceptions that it's no wonder that the American people are losing faith in their Government. There is something Orwellian about a government that subjects its citizens to rules that are too complex for them to understand.

Mr. President, it's time to stop applying piecemeal, short term remedies, such as modification of the fringe benefits provisions, and to adopt a new tax system based on equity, efficiency, and simplicity. The legislation I am introducing today would do just that. In fact, I cannot imagine what could be more fair to the American people than a flat 10 percent tax.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD together with the essay mentioned earlier.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1900

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 "Tithe Tax Act of 1991.

SEC. 2. REPEAL OF TAXATION OF CORPORATIONS.

The following provisions of the Internal Revenue Code of 1986 are hereby repealed:

(1) section 11 (relating to corporate income tax),

(2) section 55 (relating to alternative minimum tax) to the extent it applies to corporations,

(3) section 511 (relating to unrelated business income tax),

(4) section 531 (relating to accumulated earnings tax),

(5) section 541 (relating to personal holding company tax),

(6) section 594 (relating to alternative tax for certain mutual savings banks),

(7) section 801 (relating to tax imposed on life insurance companies),

(8) section 831 (relating to tax on certain other insurance companies),

(9) section 852 (relating to tax on regulated investment companies),

(10) section 857 (relating to tax on real estate investment trusts), and

(11) section 882 (relating to tax on income of foreign corporations connected with United States business).

SEC. 3. 10 PERCENT INCOME TAX RATE FOR INDIVIDUALS.

Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed on individuals) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) IN GENERAL.—There is hereby imposed on the income of every individual a tax equal to 10 percent of the excess of the earned income of such individual for the taxable year over the exemption amount for such year.

"(b) DEFINITIONS.—For purposes of this section—

"(1) EXEMPTION AMOUNT.—

"(A) IN GENERAL.—The term 'exemption amount' means, for any taxable year, $10,000 increased (for taxable years beginning after December 31, 1992) by an amount equal to $10,000 multiplied by the cost-of-living adjustment for the calendar year in which the taxable year begins.

"(B) COST-OF-LIVING ADJUSTMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(I) the CPI for October of the preceding calendar year, exceeds

"(II) the CPI for October of 1991.

"(ii) CPI.—The term 'CPI' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(C) ROUNDING.—If the increase determined under this paragraph is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or if such increase is a multiple of $5, such increase shall be increased to the next highest multiple of $10).

"(2) EARNED INCOME—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'earned income' means—

"(i) wages, salaries, and other employee compensation,

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year, and

"(iii) the amount of dividends which are from a personal service corporation or which are otherwise directly or indirectly compensation for services.

"(B) EXCEPTIONS.—The term 'earned income' does not include—

"(i) any amount received as a pension or annuity, or

"(ii) any tip unless the amount of the tip is not within the discretion of the service-recipient.

"(C) FRINGE BENEFITS VALUED AT EMPLOYER COST. The amount of any fringe benefit which is included as earned income shall be the cost to the employer of such benefit."

SEC. 4. REPEAL OF SPECIAL DEDUCTIONS, CREDITS, AND EXCLUSIONS FROM INCOME FOR INDIVIDUALS.

Chapter 1 of the Internal Revenue Code of 1986 is amended by striking out all specific exclusions from gross income, all deductions, and all credits against income tax to the extent related to the computation of individual income tax liability.

SEC. 5. REPEAL OF ESTATE AND GIFT TAXES.

Subtitle B of the Internal Revenue Code of 1986 (relating to estate, gift, and generation-skipping taxes) is hereby repealed.

SEC. 6. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

(b) REPEAL OF ESTATE AND GIFT TAXES.—The repeal made by section 5 shall apply to estates of decedents dying, and transfers made, after the date of the enactment of this Act.

(c) TECHNICAL AND CONFORMING CHANGES.—The Secretary of the Treasury or his delegate shall, as soon as practicable but in any event not later than 90 days after the date of the enactment of this Act, submit to the Committee on Ways and Means of the House of Representatives a draft of any technical and conforming changes in the Internal Revenue Code of 1986 which are necessary to reflect throughout such Code the changes in the substantive provisions of law made by this Act.

TAX SIMPLIFICATION: LET'S PLAY FLATBALL

(By Karen Quick)

Americans are tired of playing Bracketball. Who wants to keep playing this "tax game" which has unfair, complicated rules; an unlimited fourth quarter with no time-outs; and is affiliated with an inefficient association at the point of bankruptcy? Complaints are commonplace; motivation is low; and initiative is almost nonexistent. It is a confusing and biased game. The players are involuntarily drafted for participation despite their physical conditions. Their contracts automatically renew annually requiring longer and longer playing periods. The more influential athletes manage to gain preferential treatment from the promoters and officials. Some are allowed to sit on the bench for extensive periods of time and some are even paid not to show up at all. Needless to say, this does little for team morale and enthusiasm. This favoritism puts an unnecessary burden on the rest of the team. The few remaining dedicated players, who show up for all the practices come rain or shine and who give it their best shot, look forward to high scores. It gets to be a tough game as these dedicated players are forced to compensate for the "bench sitters" and "game cutters." There is a noncommittal attitude spreading among the ranks. Partly to blame is the large staff of inconsistent coaches who have different ideas of how the game is to be played. More and more of the officials are using poor judgment to call the plays. Many illegal substitutes, illegal blockings, and intentional fouls go uncalled. A lot of bloody noses result. Nobody, including the promoters and officials, seems to know how the game is to be played. One of the most infuriating aspects of Bracketball is the constant movement of the goal line. When the players get near it, the officials move it. There are strong rumors circulating in the locker rooms that a players' strike is in the works. They are tackling an enormous task in their efforts to change to a simple, fair, efficient game called "Flatball."

This fictitious analogy of our current system of American taxation may be somewhat exaggerated in pointing out the inherent problems. Yet, it brings to light the need for simplicity, fairness, and efficiency in our system of taxation. Such a tax reform referred to above as "Flatball" would not only provide needed revenue, it would also stimulate the economy, lighten the administrative load, and improve compliance. The most noteworthy result would be a boost to those precious intangibles; morale, motivation, and ingenuity.

To better understand the need for tax reform, some brief background information on the definition and history of American taxation will be given first. Numerous indictments of the current income tax system will follow. The last section will contain workable methods of sound income tax reform.

DEFINITION OF TAXATION

"The art of taxation consists of plucking the greatest number of feathers from a goose with the least amount of squawking."[1] This popular saying equates the unpleasant task of collecting taxes with the plucking of feathers. It implies the need for an economically balanced method that is viewed by the populous as simple, fair, and efficient.

What is a tax and why is it levied? "Tax" is defined as a compulsory contribution levied upon persons, property, or businesses for the support of government.[2] This basic definition makes no implication that taxes are imposed to resolve all the nation's financial and social problems. The tax laws were not intended to legalize social engineering as a government business. In a July 8, 1981 *Wall Street Journal* article by Christopher Conte, the following quotation from Senator Hatfield was given; "By attempting to solve every social and economic problem through the tax code, we have put a greater burden on the average taxpayer."[3] Taxes are not defined as a vehicle to be used to subsidize special interest groups regardless of their merits. the meaning is clear and simple. Taxes are collected to pay the necessary military and civil expenses[4] that provide goods, services and order without stifling economic growth or human ingenuity.

HISTORY OF AMERICAN TAXATION

Chief Justice John Marshall stated in 1819 during the famous case of *McCulloch v. Maryland* "the power to tax is the power to destroy." The power to tell the citizenry how much money they must pay to make their government work must be jealously guarded.[5] The writers of the Constitution were very much aware of this fact. They knew one of the major causes of the War of Independence was the imposition of taxes by the British Parliament on the colonies without their consent.[6]

In the United States, the first income tax was enacted in 1861 to help finance the Civil War. It allowed a $600.00 exemption and levied a 3% charge on incomes below $10,000 and a 5% charge on incomes above that level. In 1864, the rates were increased to 5% and 10%.[7] Tax receipts peaked in 1866 when income tax accounted for about 25% of federal revenue. In 1871, Representative Dennis McCarthy of New York expressed the view of the income tax opponents in these words, "unequal, perjury-provoking, and crime-encouraging, because it is at war with the right of a person to keep private and regulate his business affairs and financial matters." Senator John Sherman of Ohio responded with these remarks: "When you come to examine the income tax you will find that it applies, it is true, to only about 60 thousand people; but they do not pay their proper share of other taxes. WHY? Can a rich man with an overflowing revenue consume more sugar or coffee or tea, or drink more beer or whiskey, or chew more tobacco, than a poor man? You tax tobacco at the same rate per pound, whether it is the tobacco for the wealthiest or the poorest. . . . But when in a system of taxation you are compelled to reach out to many objects, you must endeavor to equalize your general results. . . . Therefore, when it

---

Footnotes at end of article

is complained that the tax on an article consumed is unjust upon the poor, because the poor have to consume a greater proportion of their income in its purchase than the rich, we answer that to countervail that we have levied a reasonable income tax upon such incomes as are above the wants and necessities of life. That is the answer and it is a complete answer; because, if you leave your system of taxation to rest solely upon consumption, without any tax upon property or income, you do make an unequal and unjust system."[8] These words of Sherman and other supporters of an income tax failed to gain a renewal of the tax. Thus, the income tax law expired in 1872[9] because it was considered an invasion of privacy with socialistic tendencies.[10]

Between 1873 and 1893, members of Congress introduced 68 different income tax bills. In 1894, a 2% income tax on incomes over $4,000 was finally passed with much controversy. But the U.S. Supreme Court declared the tax unconstitutional and in violation of Article 1, Section 2, Paragraph 3 which says that all direct taxes must be levied among the states in proportion to their population. Congress circumvented the Supreme Court's decision by proposing a constitutional amendment on July 12, 1909.[11] The well-known sixteenth amendment was ratified on February 29, 1913 by 42 states.[12] This removed the constitutional hurdle and gave Congress the authority to tax incomes from whatever source derived; without apportionment among the several states and without regard to any census or enumeration."

After more than 40 years from the expiration of the Civil War income tax, the first legal income tax was enacted under the leadership of President Woodrow Wilson.[13] It granted a $3,000 exemption for single persons and a $4,000 exemption for married couples. The graduated rate began at 1% on the first $20,000 of taxable income and ranged to a top rate of 7% on taxable incomes over $500,000. Net profits of corporations were taxed at a flat rate of 1%. Only about 0.4% of the population filed tax returns in 1913. All federal receipts amounted to about 2.6% of GNP.[14]

The next 40 years was just as stormy for the income tax. From 1913 to 1954 the income tax was part of America's struggle for survival through war and depression. By the time WWI had ended, three separate tax bills had increased tax rates nearly tenfold and exemptions had dropped significantly. But only 8% of the population paid taxes. President Warren G. Harding's Secretary of Treasury, Andrew Mellon, argued persuasively for tax reduction to foster economic growth. He stated: "Any man of energy and initiative in this country can get what he wants out of life. But when that initiative is crippled by legislation or by a tax system which denies him the right to receive a reasonable share of his earnings, then he will no longer exert himself and the country will be deprived of the energy on which its continued greatness depends. . . . On the other hand, a decrease of taxes causes an inspiration to trade and commerce which increases the prosperity of the country. . . ."[15]

With a large part of the population tired of war and taxes, Mellon's proposals gained ground. In 1921, the maximum tax rate was cut from 77% to 58% and in 1926 it was finally cut to 25%. Credit is given to Mellon and his support for tax cuts that spurred the economic boom of the 1920's. A get-rich-quick attitude pervaded the scene and many people had their shirts riding on the stock market.[16] This speculative fever prevented sound financial decisions and resulted in a rocky financial structure. Frantic transactions were prevalent. "Even the professional analyst of financial properties was sometimes bewildered when he found Co A holding a 20% interest in Co B, and Co B an interest in Co C, while C in turn invested in A, and D held shares in each of the others. But few investors seemed to care about actual worth. . . ."[17]

Until the Great Depression of the 1930's, Americans practiced the notion of a limited role for federal government with correspondingly low taxes. Except for periods of war or recession, revenues from exercises and customs were sufficient to finance those activities widely regarded as federal functions. But when the Great Depression took hold, President Herbert Hoover sponsored tax increases in a vain effort to balance the budget that reduced personal allowances and pushed the top tax bracket from 25% to 63%.[18] The economy was too weak to provide sufficient revenue. Increased rates just made matters worse. Taxes were now spent on human needs as well as national defense. When World War II broke out, millions of Americans went back to work and taxes were increased. Before the war was over, rates exceeded 90% and three-fourths of the population had to pay income taxes. A "class tax" had been replaced by a "mass tax."[19] After World War II, rates were not greatly reduced. This was the first time marginal peacetime rates, even for the middle classes and corporate businesses, exceeded 40% and even 50%. The role of government had become more involved creating a much larger establishment requiring continuously larger revenue for its ever-increasing expenditures.[20] With the acceptance of a larger government establishment, people realized high tax rates were inevitable. The Internal Revenue Code of 1954 preserved high tax rates ranging from 20% to 91%. It laid the foundation for the slow downhill slide to our current complicated, unfair tax system.

The end of the 1950's ushered in a new business term "tax planning" (a euphemism for tax avoidance) and a new profession appeared on the scene—"tax consultant." A reform introduced by President Kennedy lowered the top rate to 70%. Another tax cut, in 1969, lowered the top rate for salary income to 50%.[21] In 1981, legislation was passed to enact President Reagan's three-year 25% across the board tax cut that reduced the range to 11%–50% for all types of income[22] and introduced inflation indexing.[23] These reductions only slightly modified the progressivity of the income tax system and preserved the unfair tax expenditures and loopholes.

Tax revenue from federal, state, and local governments amounts to approximately one-third of the Gross National Product. About 35% of all government revenue is collected by the state and local levels. It is in the form of individual income taxes, corporated income taxes, sales taxes, property taxes, and various fees and charges.[24] Recent dramatic events such as Proposition 13 in California and Proposition 2½ in Massachusetts have brought some needed reform. Although reforming state and local government taxes is an important controversial subject, this paper will focus on the federal tax policies that generate about 65% of all government receipts.

What are the sources of federal revenue? Nearly one-half is derived from individual income taxes. This category amounted to 49% of all federal receipts in 1982. This percentage has been as low as 12% in 1940 and stayed around 45% during the 1960's and 1970's. The fastest growing category in the federal system is the social security taxes that provided about 34% of the total revenue in 1982. Corporate income taxes as a share of federal receipts steadily dropped throughout the 1970's. In 1982, this category generated about 8% of the revenue. Excises provided approximately 5%; estate and gift taxes brought in barely over 1% and other miscellaneous charges were just under 3% of the total receipts.[25]

Federal income taxes for individuals have increased from about $120 billion in 1974 to about $300 billion in 1982. During this same period, corporate income taxes stayed relatively flat at about $50 billion causing a decline in their share of overall federal receipts. To provide sufficient revenue for the current level of government operations, a simplified tax system would have to be capable of generating approximately $350 billion if both the individual and corporate income tax structures were overhauled.[26]

The proposal that will be recommended in this paper would replace the existing individual and corporate income taxes leaving the other aspects of the federal tax structure intact.

Why is a tax reform needed? The answer to this question could easily exceed 2,000 pages which is the approximate length of the Internal Revenue Code. Only the main indictments against the current income tax system will be covered in this paper. The four main dimensions to the inefficiency of the present system encompass economic barriers, complexity, stiffled intangibles and administrative difficulty.

Going back to the basic definition of taxation, we are reminded that the reason for the collection of taxes is to support the government as it provides necessary goods, services, and order without stiffling economic growth or human ingenuity. Our current income tax system fails to meet the fundamental purpose of its existence. It produces too little revenue. The United States government spends more on defense and domestic programs than it collects in tax revenue. Federal taxes went from a level of 3% of the Gross National Product in 1929 to about 19% in 1982. However, government spending amounted to approximately 24% of the Gross National Product in 1982. Chronic deficits over the last two decades not only offend the notion of good fiscal housekeeping, but also injure the economy and create unnecessary distortions.[27] In fiscal year 1982, after the enactment of a large budget reduction, the federal budget still had a deficit for the 13th straight year and for the 19th time in the last 20 years. Deficits have grown in recent years at such a rate that three-fourths of the 486 billion dollars in deficit accumulated from 1962–1982 resulted since 1974. From fiscal year 1946 through 1960, deficits as a percent of Gross National Product averaged about 0.4%. Over the next ten years the deficit equivalent averaged 0.8% of the Gross National Product. But over the next eleven years, the average magnitude of the deficit rose to 2.4% of the Gross National Product.[28]

Budget deficits reduce the growth of productive capacity when the economy is operating at a high level of employment. Deficits absorb over one-half of national savings leaving less savings available for investments in productive expansions. To maintain high levels of investment, the United States must borrow from abroad. If present trends continue, the United States could easily become a net debtor to the rest of the world.[29]

Because deficits force the government to compete for available saving, interest rates

remain artificially high. These high rates discourage purchases of long-term assets such as housing. They also overvalue the dollar causing a competitive disadvantage for the United States in the world market.[30]

Closely tied to the problem of persistent, chronic deficits is the accusation that the federal government has become bloated, disorganized, wasteful, and inefficient. Is the federal government too big? Donald Lambro, Washington correspondent of United Press International, would shout an emphatic "yes"! Mr. Lambro concludes, "Americans have more government than they need, more than they want, and more than they can afford. Like a riderless locomotive whose throttle has been pulled wide open, the federal government is running out of control."[31] This paper will not attempt to address the issue concerning the excessiveness of the federal government. An organized and efficient use of income taxes directly relates to the amount of revenue needed and the existence of a balanced budget.

Another economic indictment against the current tax system is that increased earnings with progressive rates cause "Bracket Creep." Inflation pushes income into higher marginal tax rates making the overall effect of "Bracket Creep" worse. Millions of Americans face high marginal tax rates that were intended for those with much higher incomes. The Treasury Department reported that in 1965 a family of four earning a median income had a tax rate of 17% which increased to 24% in 1980. For families with twice the median income the rate almost doubled from 22% to 43%. This increase was due to the progressive rate structure and inflation. "Bracket Creep" is leaving many families with less real purchasing power after taxes.[32]

For the last 20 years, each time family income rose by 10%, government receipts increased approximately 15%.[33] High marginal tax rates affect people's incentive to produce additional earnings. It impacts upon the worker's decision to work overtime or to go play tennis. The higher the marginal rate, the cheaper the price of leisure. High rates reduce capital formation and economic growth.[34] Professor Arthur Laffer illustrates the relation between taxes and incentives with the "Laffer Curve." He restates the concept of diminishing returns. "At some point, additional taxes so discourage the activity being taxed, such as working or investing, that they yield less revenue rather than more. There are two rates that yield the same amount of revenue: high taxes on low production; or low taxes on high production. . . . There is, however, at any one time, some rate that allows the government maximum revenue and yet does not discourage maximum production."[35] Congressman Jack Kemp in his book entitled, *An American Renaissance*, gave the following illustration: "Consider the baker who is taxed 20% on the first loaf of bread, 40% on the second loaf, 60% on the third, 80% on the fourth, and 100% on the fifth and who can produce only one loaf per day. His objective would be to increase his output and increase his income. His rewards for pushing forward on the frontiers of baking technology are reduced again and again for each additional loaf he bakes. When he is at the level of four loaves—or at the margin, the 100% tax rate—all incentive to increase his baking productivity ends because if the baker were to produce a fifth loaf of bread, it would be taxed entirely away."[36]

A fourth economic indictment against the present tax system is that hoopholes and tax shelters are allowing many Americans to avoid their fair share of the tax burden. Since 1979, there has been a rapid increase in the number of tax preferences and in their revenue loss. According to the Joint Committee on Taxation and the Congressional Budget Office, there were 104 tax preferences in effect in the fiscal year 1982. These preferences caused the tax base to shrink to less than one-half of the 1982 national income. In 1981, these 104 preferences cost $229 billion in lost revenue.[37] According to the IRS publication, *Statistics of Income for 1981*, the category of itemized deductions alone reduced adjusted gross income by 24% that year or by $254.4 billion. Interest expense was the single largest itemized deduction claimed in 1981 amounting to $108.7 billion.[38] Senator Bill Bradley of New Jersey gave an example of the largest syndicated tax shelters in history. He included it in his book entitled, *The Fair Tax*, Chapter 3 appropriately subtitled, "True Tales of Amazing Tax Shelters." The example follows: "The largest syndicated tax shelters in history allows the partners to purchase 45,000 old billboards for $485 million and depreciate them over the 15-year write-off period for real estate. When the billboards are sold, they will generate a long-term capital gain taxed at preferential rates. Each investor must put up $150,000, so this shelter is only available to the big hitters. However, each was promised net tax benefits over a six-year period worth $181,950; that is the tax benefits exceeded the original investment. Is this what the President meant by supply-side economics? Obviously not. No economic growth results from simple reshuffling the ownership of 45,000 existing billboards."[39] With this example it is easy to see how families who reported income in 1981 of more than $1 million paid an effective rate of only 17.7% through the use of tax shelters.[40]

In order to manipulate transactions to avoid tax, some keen minds had to connive the schemes. Out of the approximate 46,000 active tax professionals needed to interpret the complex tax law, several thousand specialize in tax shelters.[41] Think of the talent and time expended in this tax shelter industry. It is sad to admit but our income tax system has created an industry devoted to the inefficient use of investment capital. Our tax system encourages people to lose money for tax purposes and it encourages special interests to lobby for more and more selective relief.

To better understand the existence of tax preferences, we must recall the squeeze of inflation and the pain of high tax rates. Many groups have lobbied for selective relief before their elected representatives. The most powerful and influential got an exclusion, deduction, or credit to suit their special interest.[42] Legislators keep succumbing to the pressures of the lobbyists who keep repeating the little ditty made famous by Senator Russell Long of Louisiana; "Don't tax you, don't tax me, tax that fellow behind the tree."[43] President Reagan even abandoned his clean bill principles to join the crowd supporting special interests before the passage of the Economic Recovery Tax Act of 1981. A *New York Times* editorial said; "Greed and politics are running wild on Capitol Hill, and the Nation's great economic difficulties, which were supposed to be the object of budget and tax reductions, are recklessly ignored."[44] Once again the well-being and, prosperity of the nation lost out to the flawed logic of special interest groups. When will the legislators stop playing Santa Claus to influential lobbyists?

Evidenced by a newspaper article as recent as June 7, 1986, the Senate Finance Committee still insists on playing Santa Claus. The *Greensboro News and Record* article stated the Committee was proposing to give away more than 170 "toys" to special interest beneficiaries, such as "cellular telephones," "strawberry square," and "Channel." Senator Howard Metzenbaum of Ohio said, "There is blatant concealment in this bill. * * * We're still trying to find all the special provisions that are hidden in those 2,847 pages." Senator Metzenbaum listed 16 specific provisions that warranted further study. What about the remaining 154 special interest provisions?"[45] Another article, one week later in the same newspaper, gave some specifics on one of the loopholes that had been proposed by the Senate. Unocal of Los Angeles was to forego paying up to $50 million of federal taxes because they had incurred a $4.4 billion debt fighting off an attempted takeover. This loophole was killed by Senator Metzenbaum's amendment but what about the remaining loopholes?[46] The whole legislative process seems to "degenerate into a scramble to see who can get the largest slices of a shrinking pie." Nobody wins in this sport of mutual plunder. Real economic expansion through fair and simple tax reform is the surest remedy for this diversive sport.[47]

Taking into consideration the high tax rates of our progressive structure, the high level of inflation, and the large number of unfair tax preferences, is it any surprise that the underground economy in the United States is growing so rapidly? A fifth indictment against the present tax system is that it encourages tax evasion. "Sheep may stand still while they are sheared, but taxpayers do not."[48] An estimated 25 million working Americans engage in both legal and illegal activities to hide all or a portion of their income from taxation. The magnitude of this problem is described by Sylvia Porter in the following manner: "A veiled economy more vast in scope than most of the individual economies of most other countries on this globe lies underneath the in-the-open economy in which tens of millions of us in the United States live. An immense proportion of all the transactions that occur in our country take place in this underground—but they are untraced in any fashion, thus uncounted, unreported and most significant, untaxed. You yourself may well be a part of it, without even being aware that you are."[49] The Internal Revenue Service estimated the 1981 loss of revenue from legal activities to be $74.7 billion. In addition, the Internal Revenue Service estimated a $9 billion tax evasion from illegal activities such as drug traffic and prostitution.[50] Some experts think the legal and illegal sources of income that do not appear in the Gross National Product is much higher than these Internal Revenue estimates. Some analysts claim that unreported income in the United States is close to a trillion dollars. For every four dollars of legal income reported, there is another one hidden from view.[51]

Why is tax cheating so prevalent? People are very dissatisfied with unfair loopholes that favor special interest, poor fiscal policies that contribute to inflation, steep graduated rates that cause "Bracket Creep" during inflationary times, government waste, and the unresponsiveness of the tax legislators to the national interest.[52] The cure for these ills is not cheating. The solution is a complete overhaul of the federal income tax system. This would not only boost the Gross National Product but remove some of the in-

centives to join the underground economy. Less participation in the underground economy would increase the tax base already riddled with unfair, excessive loopholes, and reduce the burden on taxpayers.

A sixth economic indictment against the current system of taxation is the disincentives and distortions it causes on saving, investing, working, and prices. High marginal tax rates discourage every productive activity. The incentives to take a risk, accept added responsibilities, and expand our Gross National Product, are dfulled when a big hunk of the prize goes to somebody else.[53] "When individuals bear the full cost of their actions and are able to reap fully the gains that occur from their activities, they use resources wisely. When I bear the full cost of food, clothing, telephone service, recreation facilities and thousands of other items, you can be reasonably sure that I will conserve on my use of these items. I will not consume them unless I value the services that they provide more than the cost of the provision. Similarly, when I am able to reap the full benefits of my productive activities, you can be sure that I will undertake even unpleasant tasks when the benefits (usually personal income) exceed the costs. When individuals bear the full cost and reap the full benefits, they will use resources in a wealth-creating manner. They will engage in positive-sum economic activity. . . . Problems arise when a sizeable share of the benefits or costs emanating from economic activity accrues to nonparticipating parties. High marginal tax rates make it possible for individuals to enjoy tax deductible items at a fraction of their cost to our economy. . . . However, deductibility does not reduce the cost *to society* of the valuable resources used to produce these commodities."[54] The marketplace is far more efficient in allocating resources and setting prices than the Internal Revenue Code. The present system makes us less competitive in the world economy and prevents us from reaching our economic potential as a nation. A tax deduction is of little benefit if there is no income to subtract it from.[55]

The tax laws interfere with business decisions in an unwise, haphazard way. High marginal tax rates make consumption cheap and encourage debt instead of equity. This causes saving to decline and in turn reduces investment which is the foundation for future economic growth.[56] This disincentive is aggravated by inflation which pushes people into higher marginal tax brackets even though their real pre-tax income does not change.[57] Tax policy distorts income during real economic growth and inflationary periods causing consumption to become cheaper and saving more expensive.[58] "The current tax code distorts investment decisions so that economically desirable investments often appear less attractive than those where tax incentives inflate profitability. Section after section tells new investors what lines of business to enter, tells existing corporations how to go about their work, and puts a heavy tax on the profits of successful and productive corporations. The whole system makes no economic sense."[59] To improve incentives and reduce investment distortions, a tax system is needed with a much broader base that permits a low tax rate.

The second main dimension to the inefficiency of the current tax system is the complexity of the Internal Revenue Code. The legal complexity makes comprehension, compliance, and administration difficult. Transactional complexity encourages individuals and businesses to engage in complicated maneuvers to avoid taxes.[60] The lack of simplicity makes the uniform application of the tax laws difficult to achieve. It also imposes a high cost of taxation.

"It was a bizarre trial, a tax protest case. The defense lawyer didn't have a chance, but his closing argument was a humdinger. It went like this: The lawyer hefted the Internal Revenue Code and leaned on the jury box. 'I wish this book could talk,' he said plaintively. 'I wish this book could talk because it would crawl over this rail, it would crawl up into your laps, it would look up at you and it would cry, 'Nobody understands me.'"

The above segment was taken from a May 13, 1983 *Wall Street Journal* article by Caryl Conner, who was a speechwriter in the Carter White House. In her article entitled "Offering Incentives to Tax Evaders," she realizes the essential function of the Internal Revenue Code is to raise revenue but it creates tax evasion by its complexity and "revenue hemorrhage." She is critical of the Code's ambiguity, chaos, loopholes, social engineering, and unenforceability.[61] Let's not take Ms. Conner's word for it, let's go right to the source—Section 1302. "Definition of Averageable Income; Related Definitions" states:

(a) Average Income.—

(1) In general.—For purposes of this part, the term "averageable income" means the amount by which income for the computation year (reduced as provided in paragraph 2) exceeds 120% of average base period income.

(2) Reduction.—The taxable income for the computation year shall be reduced by—

(A) The amount (if any) to which section 72(m) (5) applies; and

(B) The amounts included in the income of a beneficiary of a trust under section 667(a)

(b) Average Base Period Income.—For purposes of this part—

(1) In general.—The term "average base period income" means one-fourth of the sum of the base period incomes for the base period.

It is surprising less than one-third of those eligible to reduce their tax computation by income averaging actually do so?[62] In short, Section 1301 means that if a person has a lot more income in 1984 than he (she) had in the past four years, then income averaging may lower the tax amount. Phrases such as "averageable income" and "base period income" are contained in this Code Section. The word "income" is also used. Nowhere in the two thousand pages of the Internal Revenue Code is the word "income" defined. Since tax is imposed on "income," it would be logical to expect a definition in the beginning of the Code. Congress threw darts all around the bullseye with definitions of "gross income," "adjusted gross income," "taxable income," "earned income," "unearned income," "ordinary income," "averageable income" and others.[63]

Tax law terminology is difficult to understand but the problem is aggravated by the use of such long sentences. A sentence in Section 170(b)(1)(A) contains 379 words; another sentence in Section 7701(a)(19) has 506 words. The Connecticut statute forbids the use of sentences longer than an average of 22 words and no sentence can be longer than 50 words.[64] To comprehend the exact meaning of some of these long Code sentences, the reader would need to construct flow charts. What kind of grade would the English high school teacher of those tax legislators give her ex-students on clarity and sentence structure?

The application of tax law is not uniform. In an attempt to understand and fairly apply the more than 2,000 pages of basic tax law, there are about 10,000 pages of tax regulations and thousands of pages of interpretations and judicial opinions.[65] Even with all this research material available, most taxpayers do not understand the tax laws. Judges do not interpret the laws uniformly. Consider the two separate cases of a Minnesota state trooper and a New Hampshire state trooper. The argument was that since the state was his employer, all the highways were the "premises" of his employer. Since he was required to eat at restaurants on the highway, the meals were "furnished for the employer's convenience on his premises." The Minnesota state trooper won the court case. Unfortunately, the state trooper in New Hampshire fared worse. The court there stated that it did not go along with this "metaphysical concept" concerning the state's territory being the "premises" of the employer. The court further stated that the meals must be "furnished in kind." With the same facts, two different states had two different rulings.[66]

Former Commissioner of the Internal Revenue Service, Jerome Kurtz, stated the Service was aware of 3.8 million taxpayers who underreported their 1979 income but an astonishing 2 million overstated their income. In addition to the confusing, verbose language of the Code, the taxpayer has to contend with complicated, lengthy forms. People turn to commercial tax preparers, IRS employees, and certified public accountants for help. Facing up to the complexity of the Code, it is understandable that these assistors and preparers do not always get the right tax amounts. Certified Public Accountants have the best record for accuracy but they are a very expensive source of help. In 1981, about 41% of all filers had their returns prepared by tax professionals with a price tag of over $1 billion.[67] To obtain a true picture of the cost of taxation, the time spent collecting and recording data must be considered as well as the time spent filling out the various forms. Taxpayers must also fund the operations of the Internal Revenue Service. Its budget grew from about $2 billion in 1978 to approximately $3 billion for 1983. Lumping all these direct and indirect cost together, taxpayers bear between $9 and $10 billion for preparing and verifying their taxes, above what they pay in income taxes.[68]

The tax laws are complex and ambiguous. They need to be reformed to impose a low flat rate on a much broader base. The laws could be simple if there were no exceptions.

The third dimension to the inefficiency of the present tax system is the negative impact upon human intangibles. In some way, all the previously discussed indictments have a stiffling effect upon those precious intangibles. When disincentives and dissatisfaction are high, morale and initiative are low. This puts a damper on human ingenuity which is one of the greatest source of improved productivity. History has proven reward, not deprivation, to be the best method for motivating people to be aspiring, risktaking, and enterprising. Congressman Jack Kemp, in his book entitled *An American Renaissance*, summarizes the way our current tax system operates. Human ingenuity "isn't just amazing inventors like Edison or dramatic managerial innovators like Henry Ford. Improvements in efficiency spring from millions of creative workers, supervisors, and managers whose intimate knowledge of their tasks leads to new methods of improving products or saving costs. From this vast pool of dispersed knowledge, a mar-

ket economy draws people who gamble that they have a better idea about how to provide more or better goods with fewer or cheaper resources. But they won't take those risks unless they will be rewarded if they succeed. By continually removing the incentives which reward achievement, we have created a system which taxes the imagination, ingenuity, and enterprise of the American people.[69]

The last dimension to the inefficiency of the present system of taxation is administrative difficulty. The economic barriers, excess burdens, unfair rules and repressed intangibles pose problems in collection and enforcement. Complexity, combined with inflation and high marginal rates, encourage tax avoidance and evasion. These factors increase the administrative burdens. The Internal Revenue Service employed about 85,000 people in 1983, which was about the same number as in 1979. During this same period, returns being audited because of tax shelter issues increased from 183,00 to 335,000.[70] The proportion of returns examined in 1984 was only 1.3%.[71] Administrative expenditures of the Internal Revenue Service dropped from 0.54% of revenue collected in 1975 to 0.41% in 1981 before reaching 0;48% in 1984. Over this same period, the ratio of IRS employees to total returns filed declined by 19%.[72] With taxpayers devoting more time and resources in avoidance techniques, administrative costs must increase to ensure proper compliance.

An income tax reform removing special deductions, credits and allowances would simplify enforcement. Compliance costs could be utilized more effectively if the tax system had a broad base with a low flat rate. Internal Revenue Service could concentrate on unreported income without being bogged down with verifying a proliferation of credits, exclusions, allowances and deductions. With understandable rules and low rates, a sense of fairness would be present that would foster voluntary compliance.

Having reviewed the numerous inefficiencies of the American income tax system, it is refreshing to present some workable recommendations for sound tax reform. The simplification proposals set forth in this paper will suggest fundamental changes to tax laws, forms, and procedures for the individual and corporation income taxes.

Tax legislators, accountants, administrators, most other taxpayers, and even some of the guilty tax evaders want tax reform. They just cannot seem to agree on how to reform the tax laws. Some people have even developed a strong dislike for the phrase "tax reform." They cannot help but recall the numerous changes made in prior years that started out as tax simplification measures but resulted in another lost battle for efficiency and fairness.

An Internal Revenue employee shared her astonishment at the size of one estate tax return that was about two inches thick, complete with index tabs. The next day she realized that estate return was not so long compared to other tax returns that were filed in the Greensboro District of the Internal Revenue Service. Tax returns had been received that individually filled the contents of a cardboard box one foot deep. It is time to raise the confidence of all taxpayers in the income tax system. True tax reform without loopholes, steep rates, and complicated rules is urgently needed.

How could true federal income tax reform by achieved? The basic steps to true reform follow:

a. Abolish loopholes
b. Broaden the tax base
c. Change to a low, flat rate
d. Deduct a personal allowance
e. Exempt an amount for each dependent
f. File simplified forms 1040 and 1120

What are the goals of sound tax policy? After implementation of the above tax simplification, the following would result:

a. Administrative ease
b. Boosted intangible
c. Conserved resources
d. Dynamic economy
e. Efficiency
f. Fairness

To achieve these goals for individual income taxes, the following tax law changes are recommended:

1. Repeal all individual adjustments to income, exclusions, deductions, and credits (except withholding and excess FICA credits). Depreciation would be allowed at a rate that provides an adequate cushion for inflation but would not favor one asset over another.

2. Include employee compensation, such as wages, salaries, tips, pensions, bonuses, prizes, fringe benefits, workman compensation and the market value of non-cash items.

3. Exclude employee reimbursements for business expenses and employer provided medical benefits.

4. Include income (loss) from business activities and any other income sources.

5. Allow a personal allowance of $6,000.00 for married taxpayers; $4,500.00 for head of household status, and $3,000.00 for single status.

6. Allow dependent allowances of $1,000.00 each.

7. Apply a low, flat rate against taxable income.

8. File on simplified form 1040.

9. Require residential leasor information. (Space is provided on form 1040)

10. Require withholding at the source whenever possible.

The individual income tax return, form 1040, would be used primarily to report employee compensation, dividends, interest, capital gains (losses), and the net income (loss) from sole proprietorships, partnerships, and small business corporations. Rents, royalties, and other sources of individual income would be included on form 1040. The personal and dependent allowances would provide a floor so that the poorer families would pay little or no income tax. After combining all sources of income and subtracting the allowance(s), taxable income would remain. If the amount was positive, then the flat rate would be applied to arrive at a total income tax.[73]

The goals previously listed could be achieved by implementing the following major revisions to the corporate income tax structure:

1. Gross revenue would be reduced by ordinary and necessary business expenses provided such items were included in receipts.

2. Business expenses would include the cost of purchases of goods and services used for business purposes during the tax year.

3. Dividends paid to shareholders and reported on their returns would be excluded on the corporate return, Federal income tax would be withheld on dividends which would be reflected on the 1099-DIV forms sent to shareholders.

4. Depreciation and amortization would be allowed at a rate that provides an adequate cushion for inflation but would not favor one asset over another.

5. Exemptions and exclusions, such as the capital gain exclusion, would no longer be allowed.

6. Tax credits would be repealed. This includes investment tax credit, jobs credit, research and development credit, and business energy credit.

7. Tax would be computed on the simplified form 1120 using the same low, flat rate assessed on the individual income tax return.

8. If negative income resulted, the loss would be carried forward and interest income allowed. There would be no limit to the amount of the loss of the number of years carried forward.[74]

The underlying foundation for income tax reform for individual and corporate incomes is a much broader base with a low flat rate. The most unfair aspect of our current system is the large array of complicated loopholes that haphazardly and uneconomically grant selective relief. A wise economist commented several years ago, "Taxpayers using loopholes are a lot like a crowd of people standing tip-toed watching a parade. They are all very uncomfortable on their toes, but no one can stand flat on this feet because he would lose his view. Yet, if they all could agree to get off their toes together, they all would see just as well, and they would feel much better too."[75] Loopholes must be abolished in order to restore a sense of fairness and to encourage economic growth.

The flat rate income tax system would be fine tuned for maximum efficiency. The lowest possible rate would be applied against a broad tax base to provide sufficient revenue to fund the fiscal budget. (A temporary source of revenue to pay off the accumulated deficits will be discussed later.) A lot flat rate of 10% on a very broad base has been proposed by Senator Jesse Helms.[76] Robert Hall and Alvin Rabushka first published in the *Wall Street Journal* their proposal for a flat tax that closely fits the consumption tax concept.[77] They are confident that a low, flat rate of 19% on individual and corporate incomes would generate more revenue than the current system and would, thus, take less time to balance the federal budget. The recommendations outlined in this paper conform to the rules of comprehensive income taxation instead of consumption taxation. The flat rate would be lower than 19% because the base would be broader. The flat rate could hover around 10% and generate sufficient revenue to fund an efficient federal government operation.

To clean up some of the results of poor fiscal housekeeping, the flat rate could be increased. But to interfere as little as possible with saving, investing, and working decisions, a temporary source of revenue could be implemented. A national retail sales tax on nonessential, luxury goods could supplement the income taxes collected. These funds would be earmarked for paying off the accumulated deficits. Implementation would be faster and more efficient if the states were used as administrative agents. The rates should be set high enough to cover existing state retail sales taxes. This supplemental tax system could be a powerful tool to wipe out the accumulated deficits. The importance of previously discussed problems, such as reduced investments, economic distortions, and high interest rates have serious repercussions on the entire nation. Whether these deficits are funded by a slightly higher flat tax or a national retail sales tax is not as important a decision as the need to pay them off.

With simpler and fairer laws, the costs that taxpayers bear to prepare, verify, and pay their income taxes would be greatly reduced. The removal of loopholes and the expansion of the tax base would also reduce ad-

ministrative costs. A low, flat tax would restore a sense of fairness that would make administration much easier. It would improve the integrity of the administrators which is the heart of voluntary compliance.

One of the key concepts to efficient tax administration is withholding at the source. Wages, pension, interest, dividends, etc., would be subject to the low flat rate. Using a withholding chart, the payer would retain and remit the income tax to the Internal Revenue Service via the quarterly employment tax return (form 941). The recipient would be issued an information document such as W-2 or 1099 showing the total income and withholdings. If the recipients had only wage and salary income, it could be possible that they would have the correct amount remitted to IRS and would not have to file a 1040 form. They would, however, be required to claim the correct filing status and number of dependents on their withholding certification (form W-4). This form would be updated annually and could require copies of birth certificates for each dependent. Annual wage statements, forms W-2, would still be issued.

Former IRS Commissioner Mortimer Chaplin estimated the following percentages of income types go unreported:

1. 35-50% of royalty and rental income
2. 30-40% of all self-employed income
3. 17-22% of capital gains
4. 8-16% of dividend and interest income.[78]

The flat tax proposals would help compliance in the last category by requiring withholding at the source. Payers of royalty income would also be required to withhold at the source. Payers of residential rental income would submit an information form stating the amount and recipient of the rental income. Individual payers would be provided space on their form 1040 to give this information. A large amount of capital gain income results from real estate and stock transactions. Consideration could be given to the collection at the local government level for the income tax on real estate sales at the time the deeds are recorded. The seller could present documentation of the basis. It could be compared to the sales price to obtain the withholding amount for income taxes. When corporations sell stock, they could also compare the basis to the selling price and withhold the appropriate amount of income taxes at the flat rate. Withholding at the source and better utilization of information documents, would improve compliance.

With the repeal of loopholes, IRS would no longer utilize resources to verify a mass of deductions, exclusions, and credits. They could concentrate on sources of unreported income, the proper filing of returns, and the prompt payment of all taxes. With the implementation of the flat tax supplemented by a national retail sales tax on a temporary basis, the folks at IRS would find the laws easier to understand and enforce. Tax simplification would also improve public understanding of the tax laws and boost public confidence. Tax administrators would smile as they noticed the taxpaying public moving toward a model state of voluntary self-assessment.[79]

The proposed tax simplification set forth in this paper would establish a fair and efficient income tax system. A redirection of efforts and capital would produce real growth. A growing, efficient economy would raise national output, stimulate human intangibles, and increase the standard of living. The American dream is not a scramble for a larger piece of a shrinking pie. In the words of Congressman Jack Kemp, "We must have economic growth . . ., which means we must press ahead to gain the necessary tax . . . reforms that will permit growth. We want to excite the elusive but vital qualities of human ingenuity and effort. Qualities important not only to an economy increasingly dominated by sophisticated services, but to the well-being and happiness of our nation's people. Ingenuity is discovered only through effort, an intangible substance which certainly means more, much more, than putting in hours. After all some people manage to retire on the job. Effort encompasses such things as a continual eagerness to acquire new knowledge and skills, a willingness to accept new responsibilities, to take the risk of initiating change. Effort can only be measured indirectly, by results, and the results are not only measured by personal prosperity but by the enrichment of community life as well."[80]

FOOTNOTES

[1] Robert E. Hall and Alvin Rabushka, *The Flat Tax* (Standard, Calif.: Hoover Institution Press, Stanford University, 1985), p. 1.

[2] Sidney I. Landau, ed. in chief, *Doubleday Dictionary* (Garden City, N.Y.: Doubleday and Company, Inc., 1975.

[3] Christopher Conte, *Wall Street Journal*, 8 July 1982.

[4] Hall and Rabushka, *The Flat Tax*, p. 1.

[5] Patricia C. Archeson, *Our Federal Government How It works*, An Introduction to the United States Government, 4th ed. (New York: Dodd, Mead, 1984), p. 11.

[6] Ibid., p. 17.

[7] Hall and Rabushka, *The Flat Tax*, p. 19.

[8] Senator Bill Bradley, *The Fair Tax* (New York: Pocket Books, 1984), p. 70.

[9] Ibid., p. 71.

[10] Hall and Rabushka, *The Flat Tax*, p. 19.

[11] Ibid., p. 20.

[12] Senator Bill Bradley, *The Fair Tax* p. 24.

[13] Ibid., p. 74.

[14] Hall and Rabushka, *The Flat Tax*, p. 20.

[15] Senator Bill Bradley, *The Fair Tax* p. 75.

[16] Ibid., p. 77.

[17] Ibid., p. 78.

[18] Hall and Rabushka, *The Flat Tax*, p. 21.

[19] Senator Bill Bradley, *The Fair Tax*, p. 80.

[20] Dan Brawley, *The Subterranean Economy* (New York: McGraw-Hill, 1982), p. 4.

[21] Hall and Rabushka, *The Flat Tax*, p. 5.

[22] Ibid., p. 21.

[23] "Tax Foundation's Tax," *Features* 30 (March 1986):2.

[24] Hall and Rabushka, *The Flat Tax*, p. 7.

[25] Ibid., p. 7.

[26] Ibid., p. 8.

[27] Henry J. Aaron and Harvey Galper, *Assessing Tax Reform* (Washington, D.C.: The Brookings Institution, 1985), p. 7.

[28] John W. Ellwood, "*Balancing the Federal Budget and Limiting Federal Spending: Constitutional and Statutory Approaches*," September 1982. Congress of the U.S. Congressional Budget Office, Washington, D.C., p. 9.

[29] Aaron and Galper, *Assessing Tax Reform*, p. 8.

[30] Ibid., p. 8.

[31] Donald Lambro, *Fat City: How Washington Wastes Your Taxes* (South Bend, Ind., 1980), p. xv.

[32] Hall and Rabushka, *The Flat Tax*, p. 23.

[33] Jack Kemp, *An American Renaissance: A Strategy for the 1980's* (New York: Harper & Row, 1979), p. 100.

[34] *Fairness and the Reagan Tax Cuts*. Hearing before the Point Economic Committee Congress of the U.S. 98th Congress Second Session, 12 June 1984 (Washington, D.C.: U.S. Government Printing Office, 1984), p. 8.

[35] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 50.

[36] Ibid., p. 52.

[37] Bradley, *The Fair Tax*, p. 87.

[38] Hall and Rabushka, *The Flat Tax*, p. 25.

[39] Bradley, *The Fair Tax*, p. 39.

[40] Ibid., p. 12.

[41] Ibid., p. 26.

[42] Ibid., p. 49.

[43] Ibid., p. 56.

[44] Ibid., p. 58.

[45] *Greensboro News and Record*, 7 June 1986, Washington AP.

[46] *Greensboro News and Record*, 14 June 1986, Washington AP.

[47] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 79.

[48] *Fairness and the Reagan Tax Cuts*, p. 52.

[49] Jerome Tuccille, *Inside the Underground Economy* (New York: Signet, 1982), p. 68.

[50] Joseph A. Pechman, ed., *Options for Tax Reform* (Washington, D.C.: The Brookings Institution, 1984), p. 21.

[51] Tuccille, *Inside the Underground Economy*, p. 69.

[52] Pechman, *Options for Tax Reform*, p. 21.

[53] Bradley, *The Fair Tax*, p. 48.

[54] *Fairness and the Reagan Tax Cuts*, p. 54.

[55] Bradley, *The Fair Tax*, p. 51.

[56] *Fairness and the Reagan Tax Cuts*, p. 6.

[57] Ibid., p. 10.

[58] Ibid., p. 7.

[59] Ibid., p. 35.

[60] Aaron and Galper, *Assessing Tax Reform*, p. 42.

[61] Caryl Conner, "Offering Incentives to Tax Evaders," *Wall Street Journal*, 13 May 1983.

[62] Bradley, *The Fair Tax*, p. 19.

[63] Michael Savage, *Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask* (New York: Dial Press, 1982), p. 3.

[64] Brawly, *The Subterranean Economy*, p. 42.

[65] Bradley, *The Fair Tax*, p. 18.

[66] Savage, *Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask*, p. 34.

[67] Bradley, *The Fair Tax*, p. 26.

[68] Robert E. Hall and Alvin Rabushka, *Low Tax, Simple Tax, Flat Tax* (New York: McGraw-Hill, 1983), p. 6.

[69] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 54.

[70] Internal Revenue Service, *Annual Report of the Commissioner and Chief Counsel of the Internal Revenue Service*, 1980, p. 27; 1983, p. 11; 1984.

[71] Ibid., 1984, Table 7.

[72] Ibid., 1984, Tables 6 and 22.

[73] Archeson, *Our Federal Government How It Works, An Introduction to the United States Government*, p. 35.

[74] Ibid., p. 122.

[75] Bradley, *The Fair Tax*, p. 102.

[76] Pechman, *Options for Tax Reform*, p. 30.

[77] Hall and Rabushka, *Low Tax, Simple Tax, Flat Tax*, p. 19.

[78] Robert Buechner, *Prosper Through Tax Planning* (New York: Coward-McCann, 1983), p. 1.

[79] Brawly, *The Subterranean Economy*, p. 27.

[80] Kemp, *An American Renaissance: A Strategy for the 1980's*, p. 194.

BIBLIOGRAPHY

Aaron, Henry J. and Galper, Harvey. *Assessing Tax Reform*. Washington, D.C.: The Brookings Institution, 1985.

Archeson, Patricia C. *Our Federal Government: How It Works, An Introduction the United States Government*. 4th ed. New York: Dodd, Mead, 1984.

Bowskey, Charles A., Comptroller General. *An Analysis of Fiscal and Monetary Policies*. Washington, D.C.: U.S. Government Accounting Office, August 31, 1982.

Boskin, Michael J., ed. *Federal Tax Reform: Myths and Realities*. San Francisco, Calif.: Institute for Contemporary Studies, 1978.

Bradley, Senator Bill. *The Fair Tax*. New York: Pocket Books, 1984.

Brawly, Dan. *The Subterranean Economy*. New York: McGraw-Hill, 1982.

Break, George F. *Financing Government in a Federal System: Studies of Government Finance*. Washington, D.C.: The Brookings Institution, 1980.

Buechner, Robert. *Prosper Through Tax Planning*. New York: Coward-McCann, 1983.

Cullinan, Paul. *The Combined Effects of Major Changes in Federal Taxes and Spending Programs Since 1981*. Staff Memorandum, April 1984.

Conner, Caryl. "Offering Incentives to Tax Evaders." *Wall Street Journal*, 13 May 1983.

Conte, Christopher. *Wall Street Journal*, 8 July 1982.

Dworak, Robert J. *Taxpayers, Taxes, and Government Spending: Perspectives on the TP Revolt*. Praeger Publishers, 1980.

Ellwood, John W. *Balancing the Federal Budget and Limiting Federal Spending: Constitutional and Statutory Approaches*. Washington, D.C.: Congress of the United States, Congressional Budget Office, September 1982.

Fairness and the Reagan Tax Cuts. Hearing before the Point Economic Committee, Congress of the United States 98th Congress Second Session. Washington, D.C.: Government Printing Office, 1984.

Friedman, Milton. *Tax Limitation, Inflation and the Role of Government*. Dallas, Texas: The Fisher Institute, 1978.

Greensboro News and Recod. Washington AP. Greensboro, N.C., June 7 and June 14, 1986.

Hall, Robert E., and Rabushka, Alvin. *Low Tax, Simple Tax, Flat Tax*. New York: McGraw-Hill, 1983.

Hall, Robert E., and Rabushka, Alvin. *The Flat Tax*. Stanford, Calif.: Hoover Institution Press, Stanford University, 1985.

Internal Revenue Service. *Annual Report of the Commissioner and Chief Counsel of the Internal Revenue Service, 1980, 1983, 1984*.

Kemp, Jack. *An American Renaissance: A Strategy for the 1980's*. New York: Harper & Row, 1979.

Lambro, Donald. *Fat City: How Washington Wastes Your Taxes*. South Bend, Ind.: Regnery/Gateway, Inc., 1980.

Landau, Sidney, I., ed. in chief. *Doubleday Dictionary*. Garden City, N.Y.: Doubleday, 1975.

Levitan, Sar A., and Werneke, Diane. *Productivity: Problems, Prospects, and Policies*. Baltimore and London: Johns Hopkins University Press, 1984.

McClure, Charles E., Jr. *Must Corporate Income Be Taxed Twice?* Washington, D.C.: The Brookings Institution, 1979.

National House Democratic Caucus. "Renewing America's Promise: A Democratic blueprint for Our Nation's Future," January 1984.

Pechman, Joseph A., ed. *What Should Be Taxed: Income or Expenditure?* Washington, D.C.: The Brookings Institution, 1980.

Pechman, Joseph A., ed. *Options for Tax Reform*. Washington, D.C.: The Brookings Institution, 1984.

Publication 79, 1982 Statistics of Income: Individual Income Tax Returns. Washington, D.C.: U.S. Government Printing Office, 1982.

Savage, Michael. *Everything You Always Wanted to Know About Taxes But Didn't Know How to Ask*. New York: Dial Press, 1982.

Statistical Abstract of the United States. 105th ed. Washington, D.C.: U.S. Department of Commerce, Bureau of Census, 1985.

Strengthening the Federal Revenue System: Implications for State and Local Taxing and Borrowing. Washington, D.C.: Advisory Commission on Intergovernmental Relations, 1984.

"Tax Foundation's Tax." *Features* 30 (March 1986):2.

Tuccille, Jerome. *Inside the Underground Economy*. New York: Signet, 1982.

By Mr. DASCHLE (for himself and Mr. HATCH):

S. 1901. A bill to amend title 5, United States Code, to make election day a legal public holiday, with such holiday to be known as "Democracy Day"; to the Committee on the Judiciary.

DEMOCRACY DAY

Mr. DASCHLE. Mr. President, in the 1990 elections, voter turnout equalled 36.4 percent of the voting age population and 54.7 percent of registered voters. That was the lowest turnout for an off-year election since 1942. Voter turnout in the last Presidential election was just barely over 50 percent of the voting age population.

Between 1960 and 1980, voter turnout declined by 10 percentage points. In 1980, almost 74 million Americans eligible to vote declined to do so. That poor turnout meant that, for the first time since 1948, the two major party candidates together did not muster the voting support of a majority of the eligible voters.

Mr. President, those statistics should alarm each and every one of us. Whether one wants to blame them on those who decline to vote or on those who have been elected, we are facing a crisis that threatens to undermine our national identity.

As the democratic leader of the world, the United States has one of the worst voter participation records in the world. It is ironic that we in the United States, the Nation that has inspired the emergence of democratic governments throughout Eastern Europe and the Soviet Union, have watched the Soviet and East European people risk their lives for democracy, for the right to vote, while many of us have taken that special right for granted.

"Democracy" is defined as "government by the people." I hope we can take our cues from the Soviet and East European citizens. It is time we got our democracy back.

What will get it back? There is no simple solution. It will take time. It will take the serious efforts of educators and employers, of voters and elected officials, of groups and individuals.

Today Senator ORRIN HATCH and I are initiating one, modest effort to further the cause. We are introducing legislation to declare election day a legal, but unpaid, public holiday. This legislation is not intended to be the last word on voter turnout, but a small step in the overall effort to encourage all American citizens to take pride and participate in their government the most fundamental way. By voting.

Each year we in Congress honor hundreds of causes and civic groups by commemorating a day, week, or month in their name. It is time that we as a nation honor and promote the continuation of our democratic heritage by declaring a permanent holiday in its name. Under the legislation we are proposing today, this holiday will be known as "Democracy Day."

Why do we need such a holiday? I think the statistics speak for themselves. We need to spark a renewal in our appreciation of democracy and the need to vote. Declaring election day a holiday would move us toward that goal.

Many ask what effect a holiday that offers employees no paid leave would have. At least a paid holiday would give people more time to vote, they might argue. They might add that it is sad if our Nation cannot afford to take a day off for democracy.

That argument may be partially accurate, but it also misses the point. Studies about the effect paid leave would have on voter participation are inconclusive. It is true that the lack of time during the workday and the lack of transportation to the polls are genuine problems for too many Americans, and every effort should be made to make voting more accessible. But the main problem we face is an erosion of values in our civic culture. Many people now feel that their vote is of little importance. When it comes to voting, there is not enough feeling of civic duty or responsibility. We could legislate a paid holiday on election day, but we cannot legislate the fundamental transformation of values necessary to get people to vote and participate. This is a challenge to us more as statesmen than as legislators.

It is my sincere hope that the designation of election day as Democracy Day—an unpaid, legal holdiay—will inspire Americans to celebrate their freedom and embark on the road to increased voter participation. The genuine honoring of democracy is dependent upon the initiative of individual citizens and civic associations and organizations.

As I noted earlier, the success of Democracy Day, or any initiative to revive our Nation's values, is vitally dependent upon our schools and other civic groups in our communities. It is with their support that we seek to declare election day a legal public holiday. I am pleased to announce that the proposal Senator HATCH and I are introducing today has the support of the Veterans of Foreign Wars, Project VOTE, the National Education Association, and other groups who work hard in their communities to encourage people to vote. We look forward to working with grassroots organizations across the country and with all our colleagues to celebrate our democratic values through the establishment of Democracy Day.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1901

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) democratic government derives its legitimacy from the consent of the governed, as manifested in the full participation of an informed and aware electorate;

(2) since 1960 the rate of voter participation in the United States has declined and is now among the lowest of any nation with a democratic form of government;

(3) since 1972 the rate of voter participation among young people in the United States has declined significantly;

(4) the Federal Government should encourage personal responsibility and the broader understanding of the value and importance of the right to vote; and

(5) the establishment of a legal public holiday on election day, the first Tuesday after the first Monday in November of each even numbered year, could provide a substantial incentive to increase voter participation by the American public.

SEC. 2. SENSE OF THE CONGRESS.

It is the sense of the Congress that educators, civic and charitable organizations, radio and television broadcasters, and public officials at all levels of government should help the people of the United States celebrate Democracy Day through appropriate celebrations and events which stress the importance of self-government.

SEC. 3. DESIGNATION OF DEMOCRACY DAY AS A LEGAL PUBLIC HOLIDAY.

Section 6103 of title 5, United States Code, is amended by adding after subsection (c) the following new subsection:

"(d) The first Tuesday after the first Monday in November in each even numbered year shall be a legal public holiday to be known as Democracy Day, except that Democracy Day shall not be considered a legal public holiday for purposes of statutes relating to pay and leave of employees as defined by section 2105 of this title.".

Mr. HATCH. Mr. President, I rise today in conjunction with Senator TOM DASCHLE in support of designating election day as Democracy Day and declaring it as an unpaid legal public holiday.

As this great Nation strives to maintain and promote democracy around the world, I consider it appropriate that we further our efforts by encouraging our own citizens to participate in the democratic process

Mr. President, the United States of America is synonymous with democracy throughout the world. However, the fact that voter turnout at elections over the past 50 years has decreased dramatically concerns me. If we are to maintain a government that is elected by the people for the people, we must make sure that all eligible citizens are given a fair chance to vote.

I am confident that when the Founding Fathers forged the process by which this country would function, they had envisioned the ideal situation in which all people were interested in who was representing them and protecting their best interests, thus actively participating in the electoral process. Sadly, this is not the case currently. Democracy Day would not only enhance our fellow citizens' opportunity to participate in the electoral process, but also remind them of their great freedom and responsibility to vote.

Some may think, "My vote will not count; I am just one voter out of millions of others, so I will not bother to vote." That is just not true. All votes count. All Americans are responsible for maintaining democracy in this great country, and Democracy Day will help to renew and instill this fading sense of responsibility.

Some may argue that we designate Democracy Day as a paid holiday rather than unpaid holiday. But, would that encourage more voting? Not necessarily. Would that help solve our fiscal problems? Definitely not. However, Democracy Day as an unpaid holiday would encourage employers to allow employees to take time to vote who may be unable or unwilling to otherwise.

Designating this holiday will additionally encourage participation from all areas of the community. Just a few of these areas include education, media, and business. Educating our children in the voting process will ensure that they will take the opportunity to vote seriously thus ensuring this country's continued democracy.

For example, schools will be encouraged to hold political assemblies, educate students about local, State, and national issues, sponsor essay contests, and allow children to participate in the voting process by voting in mock elections and accompanying their parents to the polls as they vote.

In addition, the media will be encouraged to take part through public service announcements and ads reminding the public of their opportunity and responsibility.

Not only will schools and the media be encouraged to participate, but business will also be encouraged. Here, employers may give employees time off to go to the polls, perhaps a half-hour to an hour. Transit companies may provide free transportation for the day to allow even more people to vote. Additionally, decorations, parades, and festivities will generate enthusiasm in getting involved in the electoral process. As you can well imagine, Mr. President, the possibilities are limitless and will only promote the recognition of and active participation in democracy.

I do not expect that voter turnout will be 100 percent from this time forward, perhaps realistically that will never happen. But, Democracy Day will allow those who care enough about their freedom and maintaining democracy in their country to make the effort to vote for who they decide will represent them.

Mr. President, I urge my colleagues who support democracy to likewise support designating Democracy Day as a legal, unpaid Federal holiday.

By ADAMS (for himself and Mr. KENNEDY):

S. 1902. A bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes; to the Committee on Labor and Human Resources.

RESEARCH FREEDOM ACT OF 1991

• Mr. ADAMS. Mr. President, I rise today to introduce the Research Freedom Act of 1991. This legislation is a bill of hope for Americans suffering from diseases such as Parkinson's, juvenile diabetes, spinal cord injuries, Alzheimer's—and for curing genetic diseases—before the baby is even born.

For the last 4 years, the Bush administration has banned research on fetal tissue transplantation—promising research on the treatment of diseases which cause a great deal of suffering. Diseases—like Parkinson's, juvenile diabetes, spinal injury, Alzheimer's—for which there are no known cures and few effective treatments.

This ban is not based on good science. It is based on right wing demagoguery. It is based on the misguided belief that fetal tissue transplantation promotes abortion.

It does not. A panel of experts appointed by the Reagan administration found that there was no evidence to support such a position. What they did find was that the use of fetal tissue is acceptable public policy as long as certain safeguards are followed. The panel's recommendations were even supported by Dr. Bernadine Healy and Dr. Louis Sullivan before their political appointments.

We need to be clear about what we are talking about. Fetal tissue transplantation research usually involves cells from an aborted fetus. These cells are then transplanted into an adult or child—or more recently and successfully—into a fetus that is afflicted by a genetic disease. If the transplantation is successful, the new cells take on the function of the organ into which they are placed. This means the transplantation may actually cure the disease or the disability.

Fetal tissue transplanation is not done with living fetuses or potentially viable fetuses. This research is done with fetuses that are dead.

And no matter what your view on abortion, you can choose to discard that tissue and not permit its use for promising research to save lives. Or you can tell the families of people like our former colleague Mo Udall, that we will continue to ban such promising life-saving research.

The Reagan Fetal Tissue Advisory Panel found no moral, ethical, or legal reason to prevent such research. And neither did the overwhelming majority of House Members—Republican and Democrat, antiabortion and prochoice—who voted for legislation that ends the moratorium on fetal tissue research. The bill I am introducing today, would strike down the administration's ban on fetal tissue transplantation research. It would restore the right of scientific research to go on undeterred by Government interference. And it would restore hope to the millions of individuals afflicted by these devastating diseases.

My bill, like the House bill championed by my good friend HENRY WAXMAN that passed last July, would codify the protections recommended by the Reagan administration's Human Fetal Tissue Transplantation Advisory Panel. These safeguards will protect against any possible abuses—no matter how unlikely—by prohibiting directed donations to friends or relatives or the sale of fetal tissue. The bill also requires the decision to have an abortion and the decision to donate tissue be carefully separated.

Finally, my legislation is a bill of rights for scientific research to be free from Government interference. The Administration continued the ban on this life-saving research despite the findings of the advisory panel to go forward and despite the NIH review panel that concurred with those findings. In

fact, the administration acted capriciously—if not illegally. It ignored the findings of its own reviewers, it issued no regulations, it had no authority to intervene in the scientific review process.

My bill will put a halt to these practices. It will also give the hope to millions of Americans and their families that this promising research may one day offer a cure to end the suffering caused by so many diseases.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1902

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 "Research Freedom Act of 1991".

SEC. 2. ESTABLISHMENT OF CERTAIN PROVISIONS REGARDING RESEARCH CONDUCTED OR SUPPORTED BY NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 492 the following new section:

"SEC. 492A. CERTAIN PROVISIONS REGARDING REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH.

"(a) REVIEW AS PRECONDITION TO RESEARCH.—

"(1) PROTECTION OF HUMAN RESEARCH SUBJECTS.—

"(A) In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to review under section 491(a) by an Institutional Review Board unless the application has undergone review in accordance with such section and has been recommended for approval by the Board conducting such review.

"(B) In the case of research that is subject to review under procedures established by the Secretary for the protection of human subjects in clinical research conducted by the National Institutes of Health, the Secretary may not authorize the conduct of the research unless the research has, pursuant to such procedures, been recommended for approval.

"(2) PEER REVIEW.—In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to technical and scientific peer review under section 492(a) unless the application has undergone peer review in accordance with such section and has been recommended for approval by the entity conducting such review.

"(b) ETHICAL REVIEW OF RESEARCH.—

"(1) PROCEDURES REGARDING WITHHOLDING OF FUNDS.—If research has been recommended for approval for purposes of subsection (a), the Secretary may not withhold funding for the research on ethical grounds unless—

"(A) the Secretary convenes an advisory board in accordance with paragraph (4) to study the ethical implications of the research; and

"(B) the majority of the advisory board recommends that, on ethical grounds, the Secretary withhold funds for the research.

"(2) APPLICABILITY.—The limitation established in paragraph (1) regarding the authority to withhold funds on ethical grounds shall apply without regard to whether the withholding of funds is characterized as a disapproval, a moratorium, a prohibition, or other description.

"(3) PRELIMINARY MATTERS REGARDING USE OF PROCEDURES.—

"(A) If the Secretary makes a determination that an advisory board should be convened for purposes of paragraph (1), the Secretary shall, through a statement published in the Federal Register, announce the intention of the Secretary to convene such a board.

"(B) A statement issued under subparagraph (A) shall include a request that interested individuals submit to the Secretary recommendations specifying the particular individuals who should be appointed to the advisory board involved. The Secretary shall consider such recommendations in making appointments to the board.

"(C) The Secretary may not make appointments to an advisory board under paragraph (1) until the expiration of the 30-day period beginning on the date on which the statement required in subparagraph (A) is made with respect to the board.

"(4) ETHICS ADVISORY BOARDS.—

"(A) Any advisory board convened for purposes of paragraph (1) shall be known as an ethics advisory board (hereafter in this paragraph referred to as an 'ethics board').

"(B)(i) An ethics board shall advise, consult with, and make recommendations to the Secretary regarding the ethics of the project of biomedical or behavioral research with respect to which the board has been convened.

"(ii) Not later than 180 days after the date on which the statement required in paragraph (3)(A) is made with respect to an ethics board, the board shall submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report describing the findings of the board regarding the project of research involved.

"(C) An ethics board shall be composed of no fewer than 14, and no more than 20, individuals who are not officers or employees of the United States. The Secretary shall make appointments to the board from among individuals with special qualifications and competence to provide advice and recommendations regarding ethical matters in biomedical and behavioral research. Of the members of the board—

"(i) no fewer than 1 shall be an attorney;

"(ii) no fewer than 1 shall be an ethicist;

"(iii) no fewer than 1 shall be a practicing physician;

"(iv) no fewer than 1 shall be a theologian; and

"(v) no fewer than one-third, and no more than one-half, shall be scientists with substantial accomplishments in biomedical or behavioral research.

"(D) The term of service as a member of an ethics board shall be for the life of the board. If such a member does not serve the full term of such service, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(E) The Secretary shall designate an individual from among the members of an ethics board to serve as the chairperson of the board.

"(F) In carrying out subparagraph (B)(i) with respect to a project of research, an ethics board shall conduct inquiries and hold public hearings.

"(G) With respect to information relevant to the duties described in subparagraph (B)(i), an ethics board shall have access to all such information possessed by the Department of Health and Human Services, or available to the Secretary from other agencies.

"(H) Members of an ethics board shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

"(I) The Secretary, acting through the Director of the National Institutes of Health, shall provide to each ethics board such staff and other assistance as may be necessary to carry out the duties of the board.

"(J) An ethics board shall terminate 30 days after the date on which the report required in subparagraph (B)(ii) is submitted to the Secretary and the congressional committees specified in such subparagraph.".

SEC. 3. RESEARCH CONCERNING THE TRANSPLANTATION OF FETAL TISSUE.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 498 the following new section:

"SEC. 498A. RESEARCH ON TRANSPLANTATION OF FETAL TISSUE.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) AUTHORITY.—The Secretary may conduct or support research concerning the transplantation of human fetal tissue for therapeutic purposes.

"(2) SOURCE OF TISSUE.—Human fetal tissue may be used in research carried out under the authority of paragraph (1) regardless of whether the tissue is obtained subsequent to a spontaneous or induced abortion or subsequent to a stillbirth.

"(b) INFORMED CONSENT OF DONOR.—

"(1) IN GENERAL.—With respect to research carried out under the authority of subsection (a), human fetal tissue may be used only if the woman providing the tissue provides a signed statement declaring that—

"(A) such woman donates such fetal tissue for use in research of the type described in subsection (a);

"(B) such donation is made without any restriction regarding the identity of individuals who may be the recipients of transplantations of such tissue; and

"(C) such woman has not been informed of the identity of any such individuals.

"(2) CERTIFICATION OF CONSENT.—With respect to research carried out under the authority of subsection (a), human fetal tissue may be used only if the attending physician provides a signed statement declaring that—

"(A) the tissue has been donated in accordance with paragraph (1);

"(B) in the case of tissue obtained subsequent to an induced abortion, consent for such abortion was obtained prior to obtaining or requesting consent for the donation of such tissue; and

"(C) in the case of tissue obtained subsequent to an induced abortion, full and complete disclosure has been provided to the donor described in paragraph (1) with regard to—

"(i) such physician's interest in the research to be conducted with the donated tissue; and

"(ii) any known medical risks to such donor or risks to the privacy of such donor that might be associated with the retrieval of such tissue and that are in addition to risks of such type that are associated with the induced abortion.

"(c) INFORMED CONSENT OF RESEARCHER AND DONEE.—With respect to research carried out under the authority of subsection (a), human fetal tissue may be used only if the individual with the principal responsibility for conducting such research provides a signed statement declaring that such individual—

"(1) is aware that—

"(A) the tissue is human fetal tissue;

"(B) the tissue may have been obtained subsequent to a spontaneous or induced abortion or subsequent to a stillbirth; and

"(C) the tissue was donated for research purposes;

"(2) has provided such information to other individuals with responsibilities regarding the research; and

"(3) will require, prior to obtaining the consent of an individual to be a recipient of a transplantation of the tissue, written acknowledgment of receipt of such information by such individual recipient.

"(d) AVAILABILITY OF STATEMENTS FOR AUDIT.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health, shall require that each entity that applies for a grant, contract, or cooperative agreement under this Act for any project or program that involves the conduct of research of the type described under subsection (a) provide certification that the statements required under subsections (b)(2) and (c)(1) will be available for audit by the Secretary.

"(2) CONFIDENTIALITY OF AUDIT.—Any audit conducted by the Secretary pursuant to paragraph (1) shall be conducted in a confidential manner to protect the privacy rights of the individuals involved in such research, including those individuals involved in donation, transfer, receipt, and transplantation of human fetal tissue. With respect to any material or information obtained pursuant to such audit the Secretary shall—

"(A) use such material or information only for the purposes of verifying compliance with the requirements set forth in this section;

"(B) not disclose or publish such material or information, except where required by Federal law, in which case such material or information shall be coded in a manner such that the identities of such individuals are protected; and

"(C) not maintain such material or information after completion of such audit, except where necessary for the purposes of such audit.

"(e) APPLICABILITY OF STATE AND LOCAL LAW.—

"(1) RESEARCH CONDUCTED BY RECIPIENTS OF ASSISTANCE.—The Secretary may not provide financial assistance for research conducted under the authority of subsection (a) unless the applicant for such assistance agrees to conduct the research in accordance with applicable State and local law.

"(2) RESEARCH CONDUCTED BY SECRETARY.—The Secretary may conduct research under the authority of subsection (a) only in accordance with applicable State and local law.

"(f) DEFINITION.—For purposes of this section, the term 'human fetal tissue' means tissue or cells obtained from a dead human embryo or fetus subsequent to a spontaneous or induced abortion, or a stillbirth.".

SEC. 4. PURCHASE OF HUMAN FETAL TISSUE; SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.

Part G of title IV of the Public Health Service Act, as amended by section 3 of this Act, is further amended by inserting after section 498A the following new section:

"SEC. 498B. PROHIBITIONS REGARDING HUMAN FETAL TISSUE.

"(a) PURCHASE OF TISSUE.—It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.

"(b) SOLICITATION OR ACCEPTANCE OF DONATED TISSUE FOR USE IN TRANSPLANTATION RESEARCH.—It shall be unlawful for any person or entity to knowingly solicit, acquire, receive, or accept a donation of human fetal tissue for the purpose of research involving transplantation of such tissue into another person if the donation affects interstate commerce, the tissue will be or is obtained subsequent to an induced abortion, and—

"(1) the donation will be or is made pursuant to a promise to the donating individual that the donated tissue will be transplanted into a recipient specified by such individual;

"(2) the donated tissue will be transplanted into a relative of the donating individual; or

"(3) the person or entity that knowingly solicits, acquires, receives, or accepts such donation has provided valuable consideration for the costs associated with such abortion.

"(c) CRIMINAL PENALTIES FOR VIOLATIONS.—Any person who violates subsection (a) or (b) shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'human fetal tissue' has the meaning given such term in section 498A(f).

"(2) The term 'interstate commerce' has the meaning given such term in section 201(b) of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'valuable consideration' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.".

SEC. 5. NULLIFICATION OF MORATORIUM.

(a) IN GENERAL.—Except as provided in subsection (c), no official of the executive branch may impose a policy that the Department of Health and Human Services is prohibited from conducting or supporting any research on the transplantation of human fetal tissue for therapeutic purposes. Such research shall be carried out in accordance with section 498A of the Public Health Service Act (as added by section 3 of this Act), without regard to any such policy that may have been in effect prior to the date of the enactment of this Act.

(b) PROHIBITION AGAINST WITHHOLDING OF FUNDS IN CASES OF TECHNICAL AND SCIENTIFIC MERIT—.

(1) IN GENERAL.—In the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may not withhold funds for the research if—

(A) the research has been approved for purposes of section 492A(a) of the Public Health Service Act (as added by section 2 of this Act);

(B) the research will be carried out in accordance with section 498A of such Act (as added by section 3 of this Act); and

(C) there are reasonable assurances that the research will not utilize any fetal tissue that has been obtained in violation of section 498B(a) of such Act (as added by section 4 of this Act).

(2) STANDING APPROVAL REGARDING ETHICAL STATUS.—In the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the issuance in December 1988 of the Report of the Human Fetal Tissue Transplantation Research Panel shall be deemed to be a report—

(A) issued by an ethics advisory board pursuant to section 492A(b)(4)(B)(ii) of the Public Health Service Act (as added by section 2 of this Act); and

(B) finding that there are no ethical grounds for withholding funds for such research.

(c) AUTHORITY FOR WITHHOLDING FUNDS FROM RESEARCH.—In the case of any research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may withhold funds for the research if any of the conditions specified in any of subparagraphs (A) through (C) of subsection (b)(1) are not met with respect to the research.

(d) DEFINITION.—For purposes of this section, the term "human fetal tissue" has the meaning given such term in section 498A(f) of the Public Health Service Act (as added by section 3 of this Act).•

• Mr. KENNEDY. Mr. President, I am pleased to join in introducing this important legislation to end arbitrary and groundless restraint on biomedical research. The Research Freedom Act of 1991 will shield the Nation's premier biomedical research agency, the National Institutes of Health, from unreasonable prohibitions on exceptional and promising lines of research. The principal purpose of this legislation is to remove the administration's ban on fetal tissue transplantation research. That ban is unjustified on scientific, ethical, or humane grounds. Our bill will establish rational and fair procedures for review of medical research projects. The measure is intended to allow meritorious research to proceed without unreasonable or ideological obstructions.

By unilaterally imposing a ban on fetal tissue transplantation research, the administration has withheld support for research that has great promise for helping millions of Americans with otherwise incurable diseases. There is real potential for developing treatments for Parkinson's disease, Alzheimer's disease, diabetes, spinal cord injury, and other chronic diseases and disorders, including cancer and a wide range of birth defects and genetic diseases. For many of these afflictions, no other area of research offers promise of this magnitude.

It is difficult to imagine where we would be today had research with fetal tissue been similarly restricted 40 years ago. At that time, over 50,000 people were becoming infected with polio every year. Cultured human fetal cells were essential to growing the polio virus and to the research that led to the development of the polio vaccine. As a result of that research, polio was eradicated, and countless numbers of people in America and throughout the world have been spared the ravages of that disease.

The proposed research involving the transplantation of fetal tissue into hu-

mans has already passed the rigorous technical, scientific, and policy analysis of the merit review system at the NIH. Even the administration does not challenge the high scientific merit or potential medical value of such research. The NIH currently funds other research using fetal tissue—the administration objects only to federally funded research projects that would use fetal tissue, obtained from induced abortions, for transplantation to treat or cure disease. The NIH Human Fetal Tissue Transplantation Research Panel, appointed by the Reagan administration, concluded after extensive study that support for fetal tissue transplantation research is "acceptable public policy". The panel proposed guidelines and procedures to address concerns about maintaining separation between research and abortion.

The NIH panel included theologians, physicians, scientists, and lawyers, many of whom are opposed to abortion. They carefully considered, in public forums, the ethical, legal, and scientific ramifications of this research and voted overwhelmingly that it should go forward. The Advisory Committee to the Director of NIH unanimously approved the panel's report. Two NIH directors and one acting director have said that this research should proceed. Yet, the administration prohibits it.

The administration has deviously called its ban an "indefinite moratorium," in order to circumvent the normal regulatory process and reduce public scrutiny. The Department of Health and Human Service's own counsel has advised that the ban likely fits within the definition of a "rule." He wrote that failure to codify the policy in the Federal Register, "opens a window of potential legal vulnerability" for the ban.

The administration has attempted to justify its ban by claiming that fetal tissue transplantation research will increase the incidence of abortion. The NIH Task Force found no evidence to support this assertion—and some evidence to refute it. The administration itself has been unable to present any evidence to Congress to substantiate its assumption. In fact, recent success in the private sector with fetal-to-fetal transplantation to correct genetic defects could actually lead to reductions in the incidence of abortion, if the research were to receive Federal support.

At the present time, the oversight of privately funded fetal tissue transplantation is inadequate, since there are no Federal guidelines to protect participants. This measure will put such guidelines into place for both the public and private sectors. It establishes safeguards recommended by the NIH Task Force.

The decision to terminate a pregnancy is highly personal and complex. There is no evidence to suggest that women will be more likely to have abortions because of the knowledge that fetal tissue can be used for medical research. Fetal tissue has been used for research since the 1950's, with no link to the incidence of abortion. Such an incentive is especially unlikely, since there would be no assurance that the tissue from a particular fetus could or would be used for research.

Nevertheless, to prevent such an unlikely incentive for abortion, safeguards are included in the measure to ensure that consent to donate tissue is neither requested nor obtained until after a woman consents to undergo an abortion. The measure makes it unlawful to purchase human fetal tissue or to donate tissue to a designated recipient or family member. Any party involved in obtaining or using fetal tissue is prohibited from paying for the abortion. The bill provides criminal penalties for violations, and imposes stricter standards than now apply for other types of organ donation.

With these safeguards, any potential incentives for abuse will be removed. No profit could be derived from providing the tissue for research. No family member or friend could benefit from a woman's abortion.

The bill will also prevent similar ideological interference with other biomedical research proposals. The administration has arbitrarily withheld funds for other scientifically approved research proposals on in vitro fertilization and sexual behavior. Such unilateral action will be prohibited by this legislation. Instead, the bill will require the administration to convene an ethics advisory board to address ethical concerns that arise in connection with research products that are approved on scientific grounds. Only when a majority of the board recommends that funds be withheld can research be stopped. This measure will restore the freedom of inquiry that is essential to the continued success of the country's biomedical research.

It is likely that every Member of the Senate has a family member, a friend, or knows someone with diabetes, Alzheimer's disease or Parkinson's disease. All of these patients and millions of others could benefit from this research. Our colleague Mo Udall had been planning to undergo transplantation therapy this summer to relieve his Parkinson's disease, before other complications intervened.

This bill is an important step for medical research and better health care for large numbers of our people. It has already passed the House as part of the legislation reauthorizing NIH, and I urge my colleagues to support it.•

By Mr. SIMON (for himself, Mr. MACK, and Mr. DECONCINI):

S.J. Res. 224. Joint resolution designating March 1992 as "Irish-American Heritage Month"; to the Committee on the Judiciary.

IRISH-AMERICAN HERITAGE MONTH

• Mr. SIMON. Mr. President, I rise today to introduce a joint resolution to designate March 1992 as "Irish-American Heritage Month." This resolution will nationally recognize the many contributions Irish-Americans have made throughout our Nation's history.

Approximately 40.7 million Americans are of Irish-American descent. From Andrew Jackson, our seventh President, to James Hoban, the man who designed the White House, Irish-Americans have played an integral role in shaping our national heritage. Artists, playwrights, social reformers, inventors, and politicians, including eight signers of the Declaration of Independence, are only a fraction of the many Irish-Americans who have helped enrich our great Nation. Their legacy and achievements will be better appreciated by the celebration of "Irish-American Heritage Month."

America is known as the melting pot of the world. Our national heritage is not the product of just one culture or one tradition, but takes the contributions of all the peoples of the world and combines them into the wonderful, colorful and diverse society called America. This resolution honors one of those proud traditions. I am pleased to sponsor this joint resolution and look forward to celebrating "Irish-American Heritage Month."•

ADDITIONAL COSPONSORS

S. 267

At the request of Mr. REID, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 614

At the request of Mr. DASCHLE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 614, a bill to amend title XVIII of the Social Security Act to provide coverage under such title for certain chiropractic services authorized to be performed under State law, and for other purposes.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 879

At the request of Mr. DASCHLE, the name of the Senator from Missouri

[Mr. BOND] was added as a cosponsor of S. 879, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of certain amounts received by a cooperative telephone company indirectly from its members.

S. 1159

At the request of Mr. GORE, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1159, a bill to provide for the labeling or marking of tropical wood and tropical wood products sold in the United States.

S. 1332

At the request of Mr. GRASSLEY, the names of the Senator from Oregon [Mr. HATFIELD] and the Senator from Florida [Mr. MACK] were added as cosponsors of S. 1332, a bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the Medicare Program.

S. 1346

At the request of Mr. SYMMS, the names of the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 1346, a bill to amend the Internal Revenue Code of 1986 to provide for a 50-percent-of-occupancy rule with respect to the valuation of seats on corporate aircraft on a legitimate business flight when those seats would have otherwise gone unoccupied.

S. 1357

At the request of Mr. BREAUX, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1372

At the request of Mr. GORE, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1479

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1479, a bill to amend the Public Health Service Act to reauthorize certain programs with respect to health care areas, to provide for the establishment of model programs in behavioral health, and for other purposes.

S. 1737

At the request of Mr. DOLE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1737, a bill to prohibit the import from Yugoslavia of defense articles on the United States munitions list.

S. 1776

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1776, a bill to amend the Immigration and Nationality Act with respect to the admission of O and P nonimmigrants.

S. 1793

At the request of Mr. D'AMATO, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1793, a bill to restrict United States assistance for Serbia or any part of Yugoslavia controlled by Serbia until certain conditions are met, and for other purposes.

S. 1848

At the request of Mr. KENNEDY, the names of the Senator from Indiana [Mr. COATS] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 1848, a bill to restore the authority of the Secretary of Education to make certain preliminary payments to local educational agencies, and for other purposes.

S. 1865

At the request of Mr. ROTH, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1865, a bill to amend the Internal Revenue Code of 1986 to provide for a reduction in individual income tax rates, a new individual retirement account and incremental investment tax credit.

SENATE JOINT RESOLUTION 133

At the request of Mr. HOLLINGS, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Joint Resolution 133, a joint resolution in recognition of the 20th anniversary of the National Cancer Act of 1971 and the over 7 million survivors of cancer alive today because of cancer research.

SENATE JOINT RESOLUTION 196

At the request of Mr. SIMON, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Joint Resolution 196, a joint resolution to designate October 1991 as "Ending Hunger Month."

SENATE JOINT RESOLUTION 217

At the request of Mr. HATFIELD, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Nebraska [Mr. EXON], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Joint Resolution 217, a joint resolution to authorize and request the President to proclaim 1992 as the "Year of the American Indian."

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. CRANSTON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Virginia [Mr. ROBB], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of Senate Concurrent Resolution 69, a concurrent resolution concerning freedom of emigration and travel for Syrian Jews.

SENATE RESOLUTION 212—COMMENDING THE MINNESOTA TWINS AS THE 1991 WORLD CHAMPIONS OF BASEBALL

Mr. DURENBERGER (for himself and Mr. WELLSTONE) submitted the following resolution; which was considered, amended, and agreed to; as follows:

S. RES. 212

Whereas baseball fans around the world have been treated to the most exciting and well-played World Series in history;

Whereas this was the first World Series ever pitting two last place finishers from the previous year;

Whereas both teams received tremendous support from their cities and from fans around the country and the world;

Whereas the Atlanta Braves showed amazing skill and grit under pressure, both in the series and throughout the season;

Whereas the Minnesota Twins put on a remarkable display of total baseball, combining outstanding pitching, great defense, and timely hitting;

Whereas Twins mainstays Kirby Puckett and Jack Morris performed like the superstars they are and were supported by a succession of different heroes every night;

Whereas the Twins are one of the most respected organizations in professional sports through the good work of Owner Carl Pohlad, General Manager Andy McPhail, President Jerry Bell, and Manager Tom Kelly;

Whereas the entire series was conducted with the highest level of athletic skill, personal character, and sportsmanship; Now therefore, be it

Resolved, by the Senate of the United States: That the Atlanta Braves and the Minnesota Twins be commended for their outstanding play and the credit they have brought to "our national pastime," and that the Minnesota Twins are congratulated for being 1991 World Champions of baseball.

AMENDMENTS SUBMITTED

COMMENDING THE MINNESOTA TWINS AS THE 1991 WORLD CHAMPIONS OF BASEBALL

DURENBERGER AMENDMENT NO. 1298

Mr. DURENBERGER proposed an amendment to the resolution (S. Res. 212) commending the Minnesota Twins as the 1991 World Champions of Baseball, as follows:

Amend the seventh paragraph to read as follows:

Whereas the Twins are one of the most respected organizations in professional sports through the good work of owner Carl Pohlad, general manager Andy McPhail, president Jerry Bell, and Manager Tom Kelly; and

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1992

HELMS AMENDMENT NO. 1299

Mr. HELMS proposed an amendment to the amendment of the House to the

amendment of the Senate numbered 164 to the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, as follows:

"SEC. . Notwithstanding any other provision of law, none of the funds made available to the National Endowment for the Arts under this Act may be used to promote, disseminate, or produce materials that depict or describe, in a patently offensive way, sexual or excretory activities or organs.".

KASTEN (AND OTHERS) AMENDMENT NO. 1300

Mr. KASTEN (for himself, Mr. MURKOWSKI, Mr. KOHL, and Mr. SIMPSON) proposed an amendment to the amendment of the House to the amendment of the Senate numbered 175 to the bill H.R. 2686, supra, as follows:

An Amendment No. 175. Insert before the ".": ": *Provided further*, That within the funds appropriated in this bill for Fossil Energy Research and Development, $5,000,000 shall be made available for planning, design and initial construction of the Heartland project".

EMERGENCY DROUGHT RELIEF TO THE RECLAMATION STATES

CRANSTON (AND SEYMOUR) AMENDMENT NO. 1301

Mr. BRYAN (for Mr. CRANSTON, for himself and Mr. SEYMOUR) proposed an amendment to the bill (H.R. 355) to provide emergency drought relief to the Reclamation States, and for other purposes, as follows:

At the end of subsection 102(d) add the following new sentence: "Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.".

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on Asian Organized Crime.

This hearing will take place on Tuesday, November 5 and Wednesday, November 6, 1991, at 10 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel Rinzel of the subcommittee's minority staff at 224-9157.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITIES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources and the Joint Economic Committee be authorized to meet during the session of the Senate on Thursday, October 31, 1991, at 9 a.m., for joint hearing on "Technology in the Classroom: The Last Mile."

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

SUBCOMMITTEE ON EAST ASIAN PACIFIC AFFAIRS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, October 31, at 2:30 p.m. to hold a hearing on U.S. Security Policy in East Asia.

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

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Thursday, October 31, at 10:30 a.m. to hold a closed hearing on the narcotics and foreign policy implications of the BCCI affair.

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

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. BRYAN. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, October 31, beginning at 2 p.m., to conduct a markup on S. 1655, the Environmental Research, Development, and Demonstration Authorization Act of 1991.

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

COMMITTEE ON ARMED SERVICES

Mr. BRYAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, October 31, 1991, at 6 p.m., in closed session, to discuss conference on H.R. 2100, the National Defense Authorization Act for fiscal years 1992 and 1993.

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

ADDITIONAL STATEMENTS

TRIBUTE TO BAY RABINOWITZ

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to Bernard "Bay" Rabinowitz, a New Jerseyite whose commitment to his community and to improving the life of others is unparalleled in selflessness and dedication.

On November 13, 1991, Temple B'nai Israel in Nutley, NJ, will honor Bay for his life of good works and service to New Jersey. I join in paying tribute to Bay and am proud to bring this occasion to the attention of my colleagues.

In many ways, Mr. President, Bay has lived out the American Dream. A product of the New Jersey public school system, Bay studied and graduated from the prestigious Massachusetts Institute of Technology. He served his country as a first lieutenant with the U.S. Third Army in the European Theater during World War II.

After the war, Bay returned home, as did so many others, to start his life anew and launch a career in business. It was a career marked with great success, highlighted by his serving as president and chief executive officer of Atlantic Industries for 18 years.

Despite these impressive career achievements, Bay Rabinowitz, has never been content to simply do well for himself. Mr. President, anyone who knows Bay understands that the real motivating force in his life has been to make a social contribution and to help others. Business success may have provided Bay and his family with security and a personal sense of pride in doing a job well, but service has given his life meaning.

Bay's commitment to improving health care, and expanding access to it by keeping costs down, is typical of his desire to be of service, to make things work for others. He has never believed that top notch medical care is a benefit to be enjoyed only by the wealthy. He sees it as a basic right for all people.

For over 30 years, Bay has worked actively to improve health care for all New Jerseyites. He has served as chairman of the health department evaluation board in Nutley, was named to the New Jersey Rehabilitation Commission task Force, served as State chairman of the New Jersey Conference on Aging, as first president of the low cost psychotherapy plan, twice as chairman of the Essex County Mental Health Association Board, and from 1977-79 as vice chairman of the New Jersey State Health Coordinating Council and as its chairman from 1980-82.

The list continues to include membership on the executive committee of the Center for Molecular Medicine and Immunology from 1986-87, as chairman of the blue ribbon task force on local health planning in 1986, and as vice chairman of the cardiac services task force.

After retiring from Atlantic Industries, Bay became chairman of the Board of the United Hospitals Medical Center in Newark. A full-time job for most people, this extraordinary man still finds the time to devote himself to many other activities. He continues to

serve on the board of the St. Barnabas Burn Foundation and is a member of the Citizen's Commission on AIDS for New York and New Jersey.

In addition to his important work in health care, Bay has been involved in numerous other State and community projects. He has served on the advisory board of center for technology, policy and industrial development at his alma mater, MIT, on the Statue of Liberty Centennial Commission for the State of New Jersey, and served on the board of chosen freeholders in Essex County, NJ.

Bay gets great joy from life and enjoys nothing more than giving back to the community that he believes has been so generous to him and his family. By anyone's measure, he has been enormously successful in business, and it is an accomplishment he can be proud of. But, his real satisfaction comes from his efforts to improve the quality of life for others.

Anyone who encounters Bay has to be touched by his humanity, his charm, his sharp mind, his gentle wit, his selflessness, and his innate goodness. When I think of Bay, I think of a model American. He is a man who believes in democracy and takes seriously the obligations that come with it. He understands that we as individuals share a common bond, and a common responsibility, with one another. Bay is an individual to be respected, emulated, and cherished.

Mr. President, to know Bay is a pleasure; to have been touched by his good works has been, for many, a God send. Seldom have I been so fortunate to witness such pure generosity in a human being. I am honored to call Bay my friend.

Thus, it is with pride that I join with Temple B'nai Israel and the citizens of Nutley in honoring Bay Rabinowitz. Dedicated husband and father, successful businessman, and committed public servant, Bay truly embodies the spirit of giving. I can think of no one more deserving of honor and recognition.•

THE 50TH ANNIVERSARY OF THE SINKING OF THE U.S.S. "REUBEN JAMES"

• Mr. WARNER. Mr. President, a few weeks ago a small group of men held a gathering in Washington that drew little attention from the press or official Washington. They were a group of the survivors of the U.S.S. *Reuben James*: the first U.S. warship sunk in World War II. And although I was unable to join them as they gathered at the U.S. Navy Memorial to remember their fellow seamen who have gone before them, I want to take this moment to pay due tribute to those brave sailors who lost their lives in the service of their country 50 years ago today.

On October 31, 1941, a German U-boat torpedoed and sank the U.S.S. *Reuben James*. Of the 160 crew members only 45 were rescued by nearby ships. Many of the survivors from the crew have dutifully remained in contact in the 50 years that have followed the horrible event that drew them together. I admire their commitment to each other, the commitment to their fallen mates, and their commitment to their country.

Mr. President, modern history has seen countless lives lost in war. It is only through remembering those who gave themselves in duty that such loss is given meaning, and, ultimately, that we may learn from history. I salute those members of the crew of the *Reuben James* who came together in Washington earlier this month, and I join them in tribute to the honored dead of their crew.•

S. 646—APPOINTMENT OF NEW BANKRUPTCY JUDGES

• Mr. FOWLER. Mr. President, I rise to engage my distinguished colleague from Arizona, Mr. DECONCINI, on a matter regarding S. 646, the recently passed Senate legislation authorizing the appointment of a number of new bankruptcy judges. The bill, authored by Mr. DECONCINI and reported by the Senate Judiciary Committee, passed the Senate on August 2, 1991. In the case of the State of Georgia, S. 646 authorizes the appointment of three additional judges. In addition to creating two new judgeships for the northern district of Georgia, the text of the bill explicitly creates one new judgeship for the middle district of Georgia. With regard to the new judge authorized for the middle district, the committee report that accompanies S. 646 recommends that this judge be shared by the middle and southern districts of Georgia. It is my understanding that this report language was included by the Judiciary Committee in an attempt to follow the recommendation made by the Judicial Conference of the United States that one additional judgeship be created for and shared by the middle and southern districts of Georgia. Is that correct?

Mr. DECONCINI. That is correct.

Mr. FOWLER. It is my belief that the Judiciary Committee's adherence to the Judicial Conference's recommendation for a shared judge between the two districts would have been made clearer if the text of the bill itself had mentioned both the middle and southern districts in the appropriate authorizing clause. Does the Senator agree?

Mr. DECONCINI. Yes, I agree. The inclusion of a clause in the text of S. 646 that names only the middle district of Georgia rather than both the middle and southern districts of Georgia was a drafting oversight. It was the intention of the Judiciary Committee to follow the recommendation of the Judicial Conference and create a judgeship to be shared by the middle and southern districts.

Mr. FOWLER. I thank the Senator from Arizona for this clarification.•

IN RECOGNITION OF FAYE SARKOWSKY

• Mr. GORTON. Mr. President, thank you for allowing me this opportunity to recognize the commitment and dedication of an outstanding individual from the State of Washington—Faye Sarkowsky.

On September 23, 1991, the YWCA of Seattle-King County honored Mrs. Sarkowsky by naming her the 1991 recipient of the Isabel Colman Pierce Award for Excellence in Community Service. It is with great pleasure that I take this moment on the floor of the Senate of the United States to congratulate Mrs. Sarkowsky on receiving this award. It is a fitting reflection of the many lives she has influenced throughout her years of service.

On behalf of the citizens of Seattle, King County, and the State of Washington, I applaud Faye Sarkowsky and her commitment to community service.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Michelle Maynard to participate in a program in Germany sponsored by the Konrad Adenauer Foundation on November 9–16, 1991.

The committee has determined that participation by Ms. Maynard in this program, at the expense of the Konrad Adenauer Foundation is in the interest of the Senate and the United States.•

LOST OPPORTUNITY FOR BOLD NEW STEPS IN HOUSING PROGRAMS

• Mr. MCCAIN. Mr. President, I rise today to express my deep concerns about the housing provisions of H.R. 2519, the appropriations bill that will fund Federal housing programs in fiscal year 1992. While I supported this bill as passed by the Senate, I must ex-

press my great dismay at the lack of support the conference agreement gives to the administration's housing initiatives.

Last year the Congress and the administration joined together to pass the National Affordable Housing Act, a bold and significant step in Federal housing policy. This bill, signed into law with strong bipartisan support, improved the way the Federal Government will aid communities and citizens in need of decent, affordable housing.

I supported the National Affordable Housing Act, and I have eagerly awaited this year's appropriations process, hoping that the funds necessary to sufficiently get its new housing initiatives up and running would be allocated by the Congress. Unfortunately, as the fiscal year 1992 process draws to a close, I regret to state that the Congress has clearly stumbled by suffocating much of the promise of this law.

After being passed by both the Senate and House, H.R. 2519 has taken a serious turn for the worse. President Bush's HOPE Program, developed under the visionary and resolute leadership of HUD Secretary Jack Kemp, has been drastically underfunded.

I firmly believe that HOPE will become an outstanding example of the type of domestic program reform we need in this Nation. HOPE will provide grants to low-income families to enable them to become homeowners for the first time. Instead of perpetuating a reliance on Federal housing subsidies, the HOPE Program will promote tenant ownership of housing units, and allow public housing tenants to achieve the dream of home ownership.

Sadly, the conferees agreed to a first year budget for HOPE that is 60 percent less than the President's budget request, and almost $100 million less than approved by the Senate in July. From this inauspicious beginning, the bill's housing provisions continue to go downhill.

The HOME Investment Partnership Program—a heralded new block grant to States, local communities, and nonprofit groups—has been contorted in the appropriations process. While they adequately funded HOME, the conferees have changed the program to one that could fall prey to the same inefficiencies that devastated public confidence in past Federal housing programs.

Several aspects of HOME merit careful scrutiny over the next year. The Congress has delayed the local matching requirement for the receipt of HOME funds for 1 year. While I fully recognize the fiscal relief this offers cities facing budget difficulties, it also removes a crucial, fundamental principal of HOME: That an active Federal, State, and local partnership is vital to meeting the housing needs of low-income Americans. A local match for HOME funds would undoubtedly ensure a greater commitment to the judicious use of limited taxpayer dollars, as well.

Even more distressing is the elimination of important incentives in the HOME Program for tenant-based assistance and rehabilitation. I fear that the conferees have shaped HOME in such a way that it will merely function as a federally funded trough for costly new public housing construction.

Mr. President, this is a disservice to not only the people of Arizona, but to all Americans who are concerned about increasing housing opportunities for low-income citizens. If there is one lesson the Congress should have learned about Federal housing policy, it's that massive new construction efforts are extremely expensive; they take years to offer any real benefit to the needy; they subsidize developers at the expense of the additional families languishing on public housing lists that could be served; and they have been plagued by scandal and abuse.

It is astounding that some of my colleagues persist in supporting vast expansions of new public housing construction, when over 100,000 dilapidated, vacant units stand as clear testimony to its flaws and wastefulness. I wholeheartedly share Secretary Kemp's intense frustration at the extent to which H.R. 2519 will misdirect public housing funds for new construction. The $700 million that the conference agreement contains for new construction could be put to far better use as housing vouchers or certificates.

Finally, this appropriations bill zeroed out funding for the rental housing component of the Shelter Plus Care Program for the homeless. Shelter Plus Care is an attempt to tie in Federal, State, and local resources to offer comprehensive services to the homeless. We need to offer the homeless more than temporary, emergency shelter, and this program was a constructive step forward in integrating housing, substance abuse, and other supportive services. I hope the Congress will reverse this omission during next year's appropriation process.

Mr. President, I must express my admiration and tremendous respect for the Secretary of HUD, Jack Kemp. Secretary Kemp is a man of remarkable ability, insight, and determination, and in my view he has clearly been the finest Secretary in the Department of Housing and Urban Development's history. Let the demagogues and professional cynics who attack the President for not having a domestic agenda take a look at the innovative programs and reforms led by Secretary Kemp. Let everyone concerned about providing decent housing for needy Americans review his unyielding leadership in retooling Federal housing programs to serve the poor—not special interest groups.

In expressing my concerns about the housing provisions of H.R. 2519, I do want to recognize the hard work of Senator MIKULSKI in drafting the clearly preferable Senate version of this bill. I'm thankful to Senator MIKULSKI, and the ranking minority member, Senator JAKE GARN, for their strong support of many programs that are vital to Arizona. These include services for native Americans and environmental protection.

The leadership of the Appropriations Subcommittee for VA, HUD, and Independent Agencies faced numerous competing interests of considerable importance. As best evidenced by the debate over space programs, Senator MIKULSKI and Senator GARN had an uphill struggle in attempting to balance the requests of many Members of Congress, the administration, and various constituencies.

Mr. President, I hope that next year the Congress can address some of the obvious shortcomings in Federal funding for housing programs. I pledge to do what I can to help recapture some of the opportunities for promise and reform that have been lost in H.R. 2519.●

TRIBUTE TO WILLIAM RUSSELL MOTE

● Mr. MACK. Mr. President, this week marks the 85th birthday of William R. Mote, and I would like to take a moment to honor Bill for his contributions to oceanographic and marine studies in Florida.

William Russell Mote was born in Tampa, FL, October 29, 1906, the son of Mr. and Mrs. Leroy Mote. He developed a love for the sea and the life it holds, and during his high school years in Tampa frequently explored the west coast of Florida and adjoining Gulf of Mexico.

After graduation from high school, business interests took him to New York City, Chicago, San Francisco, and Los Angeles, where he became an expert in the field of transportation. In 1940, he founded the Republic Carloading and Distributing Co., a nationwide transportation service. In 1944, his company popularized the piggyback concept, making it practical and profitable for the first time to transport large trailers and containers on flatcars across the United States.

In the last 25 years Bill has generously provided support for a variety of scientific and cultural projects, and since 1966 has been the principal benefactor of the Mote Marine Laboratory—formerly Cape Haze Marine Laboratory. The laboratory is devoted to the research and education fields of the marine and environmental sciences. In 1978, the laboratory relocated to new, expanded facilities on City Island, Sarasota, on property made available by the city of Sarasota and Arvida. Bill has served as the board of trustees president since 1967.

Bill has not been content to play only a passive role in the field of

oceanography, however, and the list of oceanographic excursions and expeditions that he has organized and sponsored gives evidence of his boundless enthusiasm and vitality.

In 1964, Bill was asked by Governor Haydon Burns to serve on the Florida Council of 100, Committee on Oceanography, and played an active role in the deliberations of that committee. In 1968, Bill was the recipient of the Gold Medal Award of the International Oceanographic Foundation, which annually recognized "the nonprofessional who has done the most in the past year to promote the study of the sea."

Since the laboratory's move to City Island, Sarasota, Bill's most consuming interest is the laboratory named in his honor. Approximately one-half of his time is devoted to planning and financial support for the laboratory's development. Thanks to his generous help, the laboratory has become a major marine institution devoted to studies in biomedicine, fish enhancement, environmental assessment, coastal ecology, marine mammals and sea turtles, and the host of problems that affect the bays and estuaries of west Florida.

In summary, Bill, through his active interest and generous support for the marine sciences and the development of programs of research and education, has added importantly to the science of oceanography. At 85 years of age, he still remains dynamic and more enthused about marine science than ever.•

HARNEY AND LAKE COUNTIES LAND ACQUISITION

• Mr. HATFIELD. Mr. President, I wish to take a moment to make a short statement for the record with regard to Federal and acquisitions in eastern Oregon.

Nearly 75 percent of eastern Oregon is now owned by the Federal Government through such agencies as the Forest Service and the Bureau of Land Management. While counties in the region receive payments under the Payments in Lieu of Taxes Act [PILT] to compensate for their lost property tax revenue, many of these counties are now at the ceiling imposed by PILT. As a result, any new acquisitions by these agencies will come at the expense of local tax revenues and the services provided by local units of government.

The fiscal year 1992 Interior and Related Agencies Appropriations Act appropriates $2 million for the purchase of ranch lands on Steens Mountain in Harney County, OR. But two points must be made clear with regard to the language relating to that appropriation, and with respect to the intent of the conference managers:

First, the $2 million appropriated in this bill cannot be expended to acquire land in Harney or Lake Counties if the purchase would result in a net loss to the county tax bases; and

Second, the BLM shall not implement land exchanges in Harney or Lake Counties which result in a net loss to the county tax bases.

Mr. President, it is the clear intent of the conferees that land acquisitions should be accomplished to the greatest extent possible through land exchange. That has been the policy of the last two administrations, and it is one I strongly support. The $2 million appropriated here shall be expended only to acquire those lands which cannot be acquired by exchange. At the same time, expenditure of the appropriation should not be necessary, and shall not proceed, until title on those lands to be exchanged has been transferred.

I am hopeful this language can serve as a model for all future land exchanges so that the interests and resources of county governments can be preserved. There will be times when it is in the public interest for the Federal Government to acquire properties. This approach will protect the public interest, it will protect the interest of the property owner seeking the transfer, and it assures that local governments are consulted as partners when land acquisitions are proposed. In the future, land acquisitions should be accomplished only when lands of equivalent value are exchanged within the county of acquisition.•

THE MEDICAID MORATORIUM AMENDMENTS OF 1991

• Mr. McCONNELL. Mr. President, I rise today to speak about a bill I introduced, the Medicaid Moratorium Amendments of 1991.

Mr. President, at this moment, the States of this great Nation are facing a crisis of unprecedented urgency in their Medicaid programs. These programs, which serve our country's most needy citizens, have been called upon time and time again, by the Federal Government, to expand their coverage of Medicaid recipients. It is time for the Federal Government to stop passing the buck and make good on its commitment to Medicaid.

The fact is, Mr. President, that many States are in the midst of budget crises which are equally as bad as the Federal Government's, if not worse. These States have been forced to be extremely creative in their gathering of funds for Medicaid programs and thus we have seen a dramatic rise in the use of provider tax funds, and voluntary donation programs. These programs enable States to obtain increased matching funds from the Federal Government which States are then able to use to provide more services to Medicaid recipients.

Some people have described these programs as "scams." I want to address that charge directly. Last October, negotiations were held between Congress and the Health Care Finance Administration [HCFA] which led to statutory language specifically allowing States the use of revenues from taxes on hospitals and other providers to help pay for Medicaid programs. The only exception in the statutory language is the voluntary contribution option, which as a result of the negotiations were to have been eliminated with a 1-year phase-out period.

So I must ask, Mr. President, if Public Law 101-508 of the Omnibus Budget Reconciliation Act of 1990 clearly sanctions the use of provider-specific taxes as a Medicaid matching source, then how is this a scam? The only scam occurring with regards to this issue is the fact that the regulations which HCFA are proposing are illegal.

Furthermore, Mr. President, when the American public hears the word "scam," I think they picture money which is used for frivolous causes. Let us make ourselves absolutely clear about what the funds that are being raised through these provider taxes are paying for. In Alabama, $174 million in State fiscal year 1992 tax receipts were used for pregnant women and infants up to 133 percent of the poverty level; for an Omnibus Budget Reconciliation Act [OBRA] 1990 mandate for older children; for ongoing and new medical services costs; for disproportionate share hospital payments.

In Arkansas, South Carolina, and my State, Kentucky, a total of $231 million in tax receipts were used to pay for mandated eligibility expansions. At least eight States have used a total of $1 billion to pay for a disproportionate share of hospital payments. Again, Mr. President, I must ask, do these programs, which provide millions of dollars in assistance to pregnant women, young children, and indigent care seekers in hospitals, sound like scams?

My colleagues in Congress have cried time and time again for improved health care services in our country, but no one is willing to pay for it. The people that will be hurt by these regulations are the people in our country who are already the most vulnerable. I submit, Mr. President, that we should not be balancing the budget on the backs of disadvantaged mothers and children.

This bill does simply this: It provides for 1 year for the States to continue both their voluntary donation, and provider tax programs. This additional year would give Congress more time to designate which programs will remain legal, and will give States more time to act accordingly so that Medicaid recipients in their jurisdiction will not suffer unduly. This bill is a companion bill to H.R. 3595, introduced in the House by Representative WAXMAN. The Congressional Budget Office's [CBO] estimates for this bill are zero. Because these programs are already a part of the budget baseline, they would not be

considered an additional financial strain to the budget.

Mr. President, this is truly an urgent matter for the many States these regulations will affect. These federal matching funds are crucial to the Medicaid programs in these States. If they are taken away, the poorest of our country's citizens will be placed at further risk of inadequate health care. If we really want to do something about infant mortality rates in this country, or adequate prenatal services, or the unavailability of health care to people who cannot afford it, then we must make the financial commitment.•

PROF. ANITA HILL

• Mr. SIMON. Mr. President, when Justice Thomas took his oath of office, he indicated that the time had come for healing. I certainly agree with that, and I applaud the Justice for that statement. I also think it is important, however, to ensure that the many accusations made against Anita Hill during the hearing be addressed as more information becomes available.

Toward that end, I would like to enter into the RECORD a letter from Mr. Donald H. Green, who was a partner at the law firm of Wald, Harkrader & Rodd during the time Professor Hill was an associate there. The letter responds to an affidavit submitted by Mr. John Burke, another partner at Wald, Harkrader & Ross at that time. Mr. Burke's affidavit was to the effect that Professor Hill's performance evaluation at the firm was unsatisfactory, and that she was asked to leave the firm.

At that time, Mr. Green was chairman of the firm's associate development committee, which was responsible for evaluation of Professor Hill's performance. Mr. Green's letter states that Professor Hill's performance was not unsatisfactory, that she was not asked to leave the firm, and that she left of her own volition. Moreover, according to Mr. Green, the firm's records show that: First, there is no indication that Professor Hill ever worked with Mr. Burke or under his supervision; and second, Mr. Burke was never a member of the associate development committee, nor was he given the authority to act on the firm's behalf to terminate associates.

Because of the short time to prepare for the hearings, not all of the relevant facts were entered into the RECORD. To help achieve healing and fairness for all concerned and to ensure the accuracy of Professor Hill's employment history, I would like this letter entered into the RECORD, along with the attached affidavits.

The material follows:

PEPPER, HAMILTON & SCHEETZ,
Washington, DC, October 21, 1991.

Re: Prof. Anita Hill.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building Washington, DC.

DEAR SENATOR BIDEN: I write to correct an unfair and false impression of Professor Anita Hill's performance at the law firm of Wald, Harkrader and Ross created by the affidavit of John Burke, Esquire, a former Wald, Harkrader and Ross partner, filed with the Committee on October 13, 1991.

During Professor Hill's tenure at Wald, Harkrader and Boss in 1980–1981, I was chairman of the firm's Associate Development Committee, which was responsible for associate evaluation I accordingly have direct knowledge of Professor Hill's performance evaluation. On October 14, 1991, I learned through inquiries from the press, that Senator Danforth had released a statement to the effect that a former partner of Wald, Harkrader and Ross had told the Committee that Professor Hill's performance had not been satisfactory and that she had been asked to leave the firm. I immediately prepared and sent to you my own affidavit which stated that Professor Hill's performance at the firm had not been unsatisfactory, that she was not asked to leave the firm, and that she had left of her own volition to pursue an alternative professional path. I said that my memory of the events was clear and that I had contacted the other two members of the Associate Development Committee and they concurred in my recollection. My interest in submitting the affidavit was not to oppose the nominating of Judge Thomas but to assure that in the Committee's consideration of the nomination Professor Hill received fair treatment. A copy of my affidavit is enclosed for your convenience.

At the time I submitted my affidavit, I had not seen the affidavit of Mr. Burke. I have now obtained a copy which I enclose. I have also had an opportunity to examine further the remaining files of Wald, Harkrader and Ross, which merged with my present firm in 1987.

The firm's records show that:

(1) Contrary to Mr. Burke's affidavit, there is no indication that Professor Hill ever worked on any legal matter with Mr. Burke or under his direct or indirect supervision or on assignment for him.

(2) Professor Hill did perform a brief assignment for another partner more senior to Mr. Burke in the field of law in which Mr. Burke practices. Professor Hill's work was favorably reviewed by that partner.

(3) There was another first-year African-American woman associate who did work with Mr. Burke during the time described in his affidavit, who was given an unsatisfactory evaluation and who was asked to seek other employment.

At the time set forth in his affidavit, Mr. Burke was a new, quite junior partner in the firm. My recollection is that he had joined the firm only two or three months before Professor Hill. He was not then, or at any time prior to his withdrawal from the firm in 1985, a member of the Associate Development Committee nor was he at any time given authority to act on the firm's behalf to terminate associates.

I consider Mr. Burke a friend and regret the necessity of disputing his affidavit. An effort has been made to bring the information from the firm's records to his attention. I hope that he will correct his affidavit but, in any event, I wanted the Committee to have this additional information. If you believe it desirable, I am prepared to restate the information in affidavit form.

Respectfully,

DONALD H. GREEN.

AFFIDAVIT OF DONALD H. GREEN

City of Washington,
District of Columbia,

Donald H. Green, being first duly sworn, deposes and says:

1. I am a member of the bars of the District of Columbia, New York, and Florida. Upon graduation from Harvard Law School and after service in the United States Marine Corps, I served as an attorney with the United States Department of Justice. I have been a partner in the law firm of Pepper, Hamilton & Scheetz in Washington, D.C. since June 1987. For 21 years prior to that time, I was a partner in the law firm of Wald, Harkrader & Ross (the "Wald firm"), also in Washington, D.C.

2. Ms. Anita Hill was a summer associate at Wald, Harkrader & Ross in the summer of 1979. Based upon her performance that summer, she received an invitation to return to our firm as a full-time associate upon her graduation from Yale Law School in 1989. She accepted that invitation, and started with the Wald firm a few months after her graduation. Although I did not work directly with her, I knew her as an associate in the Wald firm.

3. One of my roles in the Wald firm at the time that Ms. Hill was with the firm was to serve as Chairman of the Associate Development Committee. This Committee's function, among others, was to evaluate associate's performance. The Committee monitored the professional progress of associates in the firm, prepared the evaluations of the associates for review at semi-annual partner meetings, reported on associate performance at the partner meetings, and met with associates individually to inform them of the partnership's collective evaluation after such partners' meetings. If the Wald firm partners decided that an associate should no longer be employed by the firm, or should be advised to look for a position elsewhere, it was the function of the Associate Development Committee to convey that message.

4. In the Spring of 1981, the performance of Ms. Hill was routinely evaluated, along with all other associates. It is my recollection that her evaluation was typical of many of our starting associates. Her performance was *not* held to be unsatisfactory by the Wald firm. She was *not* asked by the partnership to leave the firm.

5. So far as I am aware, Ms. Hill left the Wald firm of her own volition, freely choosing an alternative professional path, which is not uncommon among young associates. I am aware of no pressure upon her to leave. I am confident that the Wald firm did not ask or press her to leave. Certainly, the Associate Development Committee, which I chaired, did not ask or press her to leave. That is my clear memory and I have recently contacted the other two members of the Committee and they confirm my recollection.

6. I have been told that today a former partner in the Wald firm has stated that the Wald firm asked Ms. Hill to leave the firm because of her allegedly inadequate performance. This is not correct. I have prepared and executed this affidavit, and submitted it to the Committee on the Judiciary of the United States, because it is important that the Committee and the Senate as a whole have the accurate facts about this matter.

The foregoing is true and correct to the best of my knowledge, information, and belief.

DONALD H. GREEN.

AFFIDAVIT

John L. Burke, Jr., being duly sworn, says:

1. I am the managing partner of the Washington office of the law firm of Foley, Hoag and Eliot. I have been engaged in the private practice of law in Washington, D.C. for 20 years. I live at 1403 McLean Mews Court, McLean, Virginia 22101.

2. From August 1, 1980, until June 15, 1985, I was a partner in the Washington law firm of Wald, Harkrader & Ross. To the best of my recollection, Anita Hill joined that law firm in the fall of 1980.

3. It was the practice of that law firm to evaluate the work performance of its associates approximately every six months. I recall a time, which I believe to be in the late winter or early spring of 1981, when I met with Anita Hill in my office at the law firm to discuss her work performance with her. At that time, I was the partner in charge of coordinating work assignments for the tax, general business and real estate section of that law firm. Anita Hill had performed work assignments for the lawyers practicing in that section, including several assignments for me.

4. To the best of my recollection, that performance evaluation lasted between 30 minutes and one hour. During the course of that performance evaluation, the specific details of which I am unable to reconstruct, I expressed my concerns and those of some of my partners, that her work was not at the level of her peers nor at the level we would expect from a lawyer with her credentials, even considering the fact that she was a first-year associate.

5. During the course of that performance evaluation, I suggested to Anita Hill that it would be in her best interests to consider seeking employment elsewhere because, based on the evaluations, her prospects at the firm were limited. I also discussed with Anita Hill the fact that Wald, Harkrader & Ross was not a firm which treated its lawyers harshly and would assist her, as it would any of its associates, in finding an appropriate legal position and that she should avail herself of that assistance.

6. The performance evaluation meeting was uncomfortable for both Anita Hill and me because I was conveying a very difficult message. Anita Hill discussed with me, and disputed, some of the comments about the quality of her work. Apart from that, there was nothing that I recall to be unusual about her reaction to the evaluation, given the circumstances.

7. It is my personal view that, based on Anita Hill's performance evaluations at Wald, Harkrader & Ross, returning to that law firm at the time that Clarence Thomas moved from the Department of Education to the Equal Employment Opportunity Commission was not an available option.

The above statement is given by me voluntarily this 13th day of October, 1991.

JOHN L. BURKE, Jr.●

INFLAMING PASSIONS ON TAIWAN

● Mr. SIMON. Mr. President, on October 13, the Democratic Progressive Party in Taiwan amended its charter to advocate a Taiwan independent of the People's Republic of China [PRC]. The DPP qualified this provision by basing its implementation on a national plebescite on independence.

The reaction in Beijing to this development has been both objectionable and unwise. Even before the DPP acted, Gen. Yang Shangkun on October 9 threatened those advocating independence in Taiwan with the statement that "those who play with fire will be burned to ashes." Not content with trying to intimidate those who were exercising their right to free speech—a freedom noticeably absent in practice in the People's Republic of China today—the authorities in Beijing subsequently warned the government in Taiwan that it should suppress the "Taiwan independence movement." Beijing attempted to further interfere in the political process in Taiwan by stating that if the "separatists" continued to try to "split the nation * * * then the Chinese Government will not sit idly by and remain indifferent."

The regime in Beijing, which has deprived the Chinese people of virtually every political and civil right, has no authority to try to dictate affairs on Taiwan. Intimidation and threats, in particular, have no place in this matter. President Lee Teng Hui rightfully rejected Beijing's implicit threat to invade, noting that it had triggered resentment in Taiwan.

I call on the Beijing authorities to refrain from further actions which would only further inflame passions on Taiwan.

I applaud the process of democratization on Taiwan under the leadership of President Lee that has clearly increased the stature of Taiwan in the world community. But I must also express my concern with the initial reaction of the governing party in Taiwan to the DPP's action. I take no position on the merits of the DPP's position on independence for Taiwan. Nevertheless, I believe any legal action against the DPP for its call for a plebescite on independence would tarnish the positive image Taiwan has successfully built in the international community in the last few years.

I am sympathetic to the fact that the reaction in Beijing on the independence issue has created a sense of crisis and uncertainty on Taiwan. I do not intend to suggest to the concerned parties there how to deal with the issue raised by the DPP's actions. I only urge that they approach these questions with reason and fairness, features which have been salient characteristics of Taiwan's democratization process and which have also been proven effective in maintaining and furthering economic prosperity and social stability on Taiwan.●

REMOVAL OF INJUNCTION OF SECRECY

Mr. BRYAN. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Treaty with Argentina on Mutual Legal Assistance in Criminal Matters (Treaty Document No. 102-18), transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the Government of the United States of America and the Government of the Republic of Argentina on Mutual Legal Assistance in Criminal Matters, signed at Buenos Aires on December 4, 1990. I transmit also, for the information of the Senate, the Report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter criminal activities more effectively. The Treaty should be an effective tool to assist in the prosecution of a wide variety of modern criminals, including members of drug cartels, "white collar criminals," and terrorists. The Treaty is self-executing.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) the taking of testimony or statements of witnesses; (2) the provision of documents, records, and evidence; (3) the execution of requests for searches and seizures (4) the serving of documents; and (5) the provision of assistance in locating, tracing, immobilizing, seizing and forfeiting proceeds of crime, and restitution to the victims of crime.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

GEORGE BUSH.

THE WHITE HOUSE, *October 31, 1991.*

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations reported today by the Committee on the Judiciary:

U.S. SENTENCING COMMISSION

Michael S. Gelacak, to be a Member of the U.S. Sentencing Commission.

U.S. DISTRICT JUDGE

Rebecca F. Doherty, to be U.S. district judge;

Denis R. Hurley, to be U.S. district judge;

Barbara A. Caulfield, to be U.S. district judge;

Ronald E. Longstaff, to be U.S. district judge;

John W. Lungstrum, to be U.S. district judge; and

Terry R. Means, to be U.S. district judge.

U.S. ATTORNEY

Robert Q. Whitwell, to be U.S. Attorney;

William D. Hyslop, to be U.S. Attorney;

Kevin C. Potter, to be U.S. Attorney;

I further ask unanimous consent that the nominees be confirmed en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection.

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

STATEMENT ON THE NOMINATION OF MAGISTRATE RONALD LONGSTAFF

Mr. HARKIN. Mr. President, I wish to again express my strong support for Ronald Longstaff's nomination to sit on the U.S. District Court for the Southern District of Iowa.

Ron Longstaff has served with distinction as a U.S. magistrate judge since 1976, and before that served as clerk of court to the U.S. magistrate from 1968 to 1976. In that time he has produced a record of intelligent decisions and fairness to all parties which is well known in the Iowa legal community. In my contacts with leading attorneys in Iowa, I have never heard less than a strong positive endorsement of Magistrate Judge Longstaff's abilities. He was unanimously endorsed as scrupulously fair and free from bias.

Magistrate Judge Longstaff's record shows a high level of intellectual achievement. He attended the University of Iowa on a full tuition scholarship. As a student, he wrote a number of law review articles. He taught classes at Drake University Law School, and has lectured for the Iowa Bar Review course on Federal jurisdiction since 1973.

He has also demonstrated the creativity and skills needed to manage a district court caseload. The pretrial settlement procedure he developed has led to improved efficiency in handling cases in the southern district, often avoiding costly litigation and saving money for litigants and the court system alike. This ingenuity will be helpful as the Federal court system continues to deal with the torrent of cases coming before the Federal bench.

Finally, as chair of the Disability Policy Subcommittee, and a strong advocate of the rights of people with disabilities, I take special pleasure in supporting this nomination. Magistrate Judge Longstaff was born with cerebral palsy, but that has not stood in the way of his distinguished legal career serving this Nation in our Federal court system. I applaud his courage and conviction in overcoming architectural and attitudinal barriers.

I strongly support this outstanding nominee, and am proud to vote for his confirmation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

REFERRAL OF NOMINATION

Mr. BRYAN. Mr. President, as if in executive session, I ask unanimous consent that the nomination of David M. Nummy, to be an Assistant Secretary of the Treasury, reported by the Committee on Finance, be referred to the Committee on Governmental Affairs for a period not to exceed 20 days.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection.

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

REREFERRAL OF H.R. 35

Mr. BRYAN. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee be discharged from further consideration of H.R. 35, the Western North Carolina Wilderness Protection Act, and that the measure then be referred to the Agriculture Committee.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. No objection.

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

AMENDMENTS TO THE STANDING RULES OF THE SENATE

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 259, Senate Resolution 192, regarding a rules change to conform with recent changes enacted into law.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 192.) to amend the Standing Rules of the Senate, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

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

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 192) was agreed to.

The resolution, is as follows:

S. RES. 192

SECTION 1. OUTSIDE EARNED INCOME.

(a) The Standing Rules of the Senate are amended by inserting after rule XXXV the following:

"RULE XXXVI

"OUTSIDE EARNED INCOME

"For purposes of this rule, the provisions of section 501 of the Ethics in Government Act of 1978 (5 U.S.C. App. 7 501) shall be deemed to be a rule of the Senate as it pertains to Members, officers, and employees of the Senate.".

(b) Section 501 of the Ethics in Government Act of 1978 provides as follows:

"SEC. 501. OUTSIDE EARNED INCOME LIMITATION.

"(a) OUTSIDE EARNED INCOME LIMITATION.—(1) Except as provided by paragraph (2), a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code, may not in any calendar year have outside earned income attributable to such calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year.

"(2) In the case of any individual who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule during a calendar year, such individual may not have outside earned income attributable to the portion of that calendar year which occurs after such individual becomes a Member or such an officer or employee which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under section 5313 of title 5, United States Code, as of January 1 of such calendar year multiplied by a fraction the numerator of which is the number of days such individual is a Member or such officer or employee during such calendar year and the denominator of which is 365.

"(b) HONORARIA PROHIBITION.—An individual may not receive any honorarium while that individual is a Member, officer or employee.

"(c) TREATMENT OF CHARITABLE CONTRIBUTIONS.—Any honorarium which, except for subsection (b), might be paid to a Member, officer or employee, but which is paid instead on behalf of such Member, officer or employee to a charitable organization, shall be deemed not to be received by such Member, officer or employee. No such payment shall exceed $2,000 or be made to a charitable organization from which such individual or a parent, sibling, spouse, child, or dependent relative of such individual derives any financial benefit.

"[Sec. 505(3) of such Act defines honorarium as follows:

"(3) The term 'honorarium' means a payment of money or anything of value for an appearance, speech or article [(including a

series of appearances, speeches, or articles if the subject matter is directly related to the individual's official duties or the payment is made because of the individual's status with the Government) parenthetical effective January 1, 1992] by a Member, officer or employee, excluding any actual and necessary travel expenses incurred by such individual (and one relative) to the extent that such expenses are paid or reimbursed by any other person, and the amount otherwise determined shall be reduced by the amount of any such expenses to the extent that such expenses are not paid or reimbursed.]".

SEC. 2. GIFTS.

(a) Rule XXXV of the Standing Rules of the Senate is amended—

(1) by striking clauses (1) and (3) of paragraph 1(a) and paragraph 1(b);

(2) by redesignating clause (2) of paragraph 1(a) as subparagraph (a);

(3) by redesignating subparagraph (c) of paragraph 1 as subparagraph (b);

(4) in subparagraph (a) of paragraph 1 (as redesignated), by striking "having an aggregate value exceeding $300 during a calendar year" and inserting "in any calendar year aggregating more than the minimal value as established by section 7342(a)(5) of title 5, United States Code, or $250, whichever is greater"; and

(5) in subparagraph (b) of paragraph 1 (as redesignated)—

(A) in clause (2) by striking "less than $75" and inserting "$100 or less, as adjusted under section 102(a)(2)(A) of the Ethics in Government Act of 1978";

(B) in clause (2) by inserting "or" after the semicolon;

(C) in clause (3) by striking "; or" and inserting a period; and

(D) by striking clause (4).

(b) Paragraph 2(c) of rule XXXV is amended

(1) in clause (1) by striking "(and 2 nights)" and striking "(and 6 nights)"; and

(2) in clause (2) by striking "spouse of a Member" and inserting the following: "spouse or child of such Member".

SEC. 3. CONFLICT OF INTEREST.

Rule XXXVII of the Standing Rules of the Senate is amended—

(1) in paragraph 5 by—

(A) redesignating subparagraphs (a), (b), and (c) as clauses (1), (2), and (3), respectively;

(B) inserting "(a)" after "5"; and

(C) inserting at the end thereof the following:

"(b) A Member or an officer or employee whose rate of basic pay is equal to or greater than 120 percent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule shall not—

"(1) receive compensation for affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship;

"(2) permit that Member's, officer's, or employee's name to be used by any such firm, partnership, association, corporation, or other entity;

"(3) receive compensation for practicing a profession which involves a fiduciary relationship; or

"(4) receive compensation for teaching, without the prior notification and approval of the Committee on Ethics."; and

(2) in paragraph 6 by—

(A) redesignating clauses (1), (2), and (3) of subparagraph (c) as subclauses (A), (B), and (C), respectively;

(B) redesignating subparagraphs (a), (b), and (c) as clauses (1), (2), and (3), respectively;

(C) inserting "(a)" after 6"; and

(D) inserting at the end thereof the following:

"(b) A Member or an officer or employee whose rate of basic pay is equal to or greater than 120 percent of the annual rate of basic pay in effect for grade GS-15 of the General Schedule shall not serve for compensation as an officer or member of the board of any association, corporation, or other entity.

SEC. 4. PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS.

Paragraph 1 of rule XXXVIII of the Standing Rules of the Senate is amended by—

(1) redesignating subparagraphs (a), (b), (c), and (d) as clauses (1), (2), (3), and (4), respectively;

(2) inserting "(a)" after "1."; and

(3) adding at the end thereof the following:

"(b) Notwithstanding subparagraph (a), official expenses may be defrayed only as provided by subsections (d) and (i) of section 311 of the Legislative Appropriations Act, 1991 (Public Law 101-520).".

SEC. 5. AMENDMENT TO RULE XLI.

Paragraph 3 of rule XLI of the Standing Rules of the Senate is amended by striking "paragraph 2(d)" and inserting "paragraph 4".

SEC. 6. AMERICANS WITH DISABILITIES ACT OF 1990.

Rule XLII of the Standing Rules of the Senate is amended by—

(1) inserting "1." before "No"; and

(2) adding at the end thereof the following:

"2. For purposes of this rule, the provisions of section 509(a) of the Americans With Disabilities Act of 1990 shall be deemed to be a rule of the Senate as it pertains to members, officers, and employees of the Senate.".

SEC. 7. EFFECTIVE DATES.

(a) The amendments made by section 1(a) and section 3 of this resolution shall take effect on August 14, 1991.

(b) The amendments made by section 2(a) of this resolution shall take effect on January 1, 1992.

(c) The amendments made by section 2(b) of this resolution shall take effect on May 4, 1990.

(d) The amendments made by section 4 of this resolution shall take effect at the beginning of the second session of the 102d Congress:

(e) The amendments made by section 5 of this resolution shall take effect on the date of adoption of this resolution.

(f) The amendments made by section 6 of this resolution shall take effect on the date section 509(a) of the Americans With Disabilities Act of 1990 takes effect.

Mr. BRYAN. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE EXTENSION OF NONDISCRIMINATORY TREATMENT WITH RESPECT TO THE PRODUCTS OF THE PEOPLE'S REPUBLIC OF BULGARIA

AND

THE EXTENSION OF NONDISCRIMINATORY TREATMENT WITH RESPECT TO THE PRODUCTS OF THE MONGOLIAN PEOPLE'S REPUBLIC

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration en bloc of House Joint Resolution 281, a joint resolution approving the extension of nondiscriminatory treatment, most-favored-nations treatment, to the products of the Mongolian People's Republic; and House Joint Resolution 282, a joint resolution approving the extension of nondiscriminatory treatment, MFN treatment, to the products of the Republic of Bulgaria, just received from the House; that the joint resolutions be deemed read three times, passed, and the motion to reconsider the passage of the two resolutions en bloc be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 282) approving the extension of nondiscriminatory treatment with respect to the products of the People's Republic of Bulgaria.

So the joint resolution was deemed read three times and passed.

The PRESIDING OFFICER. The clerk will report the second joint resolution.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 281) approving the extension of nondiscriminatory treatment with respect to the products of the Mongolian People's Republic.

So the joint resolution was deemed read three times and passed.

ON RESOLUTIONS APPROVING THE EXTENSION OF MOST-FAVORED-NATION TREATMENT TO BULGARIA AND MONGOLIA

Mr. BENTSEN. Mr. President, I rise in support of House Joint Resolution 281 and House Joint Resolution 282 approving the extension of most-favored-nation [MFN] treatment to products imported from Bulgaria and Mongolia. These resolutions also approve the trade agreements negotiated with these two countries.

The agreements deserve our support. Not only will Bulgaria and Mongolia benefit from MFN status, but United States companies will also benefit from lower tariffs in those two markets. The agreements also contain a number of provisions aimed at making it easier for American companies to set up offices in Bulgaria and Mongolia, to hire staff and agents and distributors, to mount trade promotion events, to advertise their products and to conduct basic market research. Both agreements contain world-class commitments to protect the intellectual property rights of Americans. I ask unanimous consent that summaries of the two agreements be printed in the RECORD.

There being no objection, the materal was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE U.S.-MONGOLIAN TRADE AGREEMENT

Article I.—Article I provides that the United States and Mongolia shall accord most-favored-nation (MFN) treatment to each other's products with respect to customs duties and charges, the method of payment for imports and export, all rules and formalities in connection with importation and exportation, taxes and internal charges and other laws and regulations affecting the sale, distribution and storage of products. Each country agrees to accord non-discriminatory treatment to the products (except textiles) of the other country with respect to the application of quantitative restrictions and the granting of licenses.

Article II.—Under Article II, each country agrees not to impose taxes or other charges or implement regulations in a manner that disadvantages imports from the other country relative to domestic products, or to apply taxes or regulations as a means of protecting domestic production. The countries also commit to ensure that technical regulations and standards do not become obstacles to trade. In addition, Mongolia agrees to accede to the Convention Establishing the Customs Cooperation Council and Description and Coding System.

Article III.—In Article III, both countries agree to maintain a satisfactory balance of market access opportunities. This Article also provides that trade is to be conducted between the two countries by means of contracts concluded as exercises of independent commercial judgment on the basis of non-discrimination and customary commercial considerations such as price, quality, availability, delivery, and terms of payment. Article III also provides that neither country will require or encourage barter or countertrade.

Article IV.—Article IV includes general provisions concerning the desirability of expanding two-way trade and commits both countries to take "appropriate measures" to encourage the expansion of commercial contacts. Both countries agree to facilitiate the holding of trade promotional events and encourage their companies and citizens to participate in such events. Article IV also provides that the United States and Mongolia will permit the duty-free importation and reexportation of articles used in trade events.

Article V.—Article V permits each country to establish government commercial offices in the other party.

Article VI.—Article VI contains a number of provisions aimed at facilitating business transactions between the two countries. These provisions relate to the estalishment of "commercial representatives," the direct hire of employees, importation of office equipment, access to office space and living accommodations, employment of agents and distributors, the stocking and distribution of samples and replacement parts, advertising, market research, and access to services provided by the governments (*e.g.*, public utilities).

Article VII.—This Article requires each country to make publicly available on a timely basis all laws and regulations relating to trade, investment, taxation, and other commercial matters. In addition, Article VII requires each party to permit nationals and companies of the other country to comment on the formulation of rules and regulations which affect the conduct of business.

Article VIII.—Article VIII stipulates that, unless otherwise agreed, commercial transactions should be conducted in U.S. dollars or other convertible currency. The Article also binds the parties not to restrict the export of convertible currencies or deposits obtained in connection with trade in goods and services. In addition, the Article provides that nationals and companies of each country may maintain bank accounts in the other country. Artcle VIII also requires non-discriminatory treatment with respect to a range of financial transactions.

Article IX.—Article IX sets forth detailed commitments regarding the protection of intellectual property. Each country confirms its adherence to the Paris Convention for the Protection of Industrial Property and agrees to adhere to the Berne Convention for the Protection of Literary and Artistic Works. In addition, Article IX provides for protection of computer programs, data bases, sound recordings, trademarks, semiconductor chip designs, and trade secrets. In addition, the Article commits each country to provide effective enforcement measures, both internally and at the border.

Artice X.—In Article X, each party agrees to strive for agreements on taxation and investment issues, which would include provisions on the repatriation of profits and transfer of capital. Each party also agrees to take steps to foster economic and technical cooperation in such fields as standards and statistics. Finally, each country agrees to consult on services trade liberalization.

Artcle XI.—Article XI provides safeguard arrangements calling for prompt consultations and permitting the imposition of import restrictions in case of market disruption.

Article XII.—This Article incorporates a number of provisions relating to the settlement of disputes. For example, Article XII grants national treatment to the nationals and companies of either party with respect to access to the courts and administrative bodies of the other party, encourages the adoption of arbitration and sets forth desired arbitration procedures and provides that each country is to ensure that there is an effective means for the recognition and enforcement of arbitral awards.

Article XIII.—this Article stipulates that nothing in the agreement limits the right of either country to take actions to protect its national security interests.

Article XIV.—In Article XIV, the parties agree to consult periodically to review the operation of the agreement.

Article XV.—This Article defines the key terms used in the agreement.

Article XVI.—This Article contains several exceptions to the agreement. The agreement is not to be construed, for example, to prohibit measures designed to secure compliance with laws which are not contrary to the purposes of the agreement or measures to protect intellectual property rights. The agreement does not affect agreements on textiles. Also, nothing in the agreement is to preclude a party from applying its laws to entities substantially owned or controlled by the government of the other party.

Article XVII.—Article XVII deals with the entry into force of the agreement, stipulates that the initial term of the agreement will be three years, with possible extensions for three-year terms, and provides for termination of the agreement.

In separate side letters, each of which is an integral part of the agreement, Mongolia has made additional commitments concerning the promotion of tourism and the establishment of commercial representations. Also, the United States agreed to give due consideration to Mongolia's request that it be designated a beneficiary under the Generalized System of Preferences.

SUMMARY OF THE U.S.-BULGARIAN TRADE AGREEMENT

Article I.—Article I provides that the United Sates and Bulgaria shall accord most-favored-nation (MFN) treatment to each other's products with respect to customs duties and charges, the method of payment for imports and exports, all rules and formalities in connection with importation and exportation, taxes and internal charges and other laws and regulations affecting the sale, distribution and storage of products. Each country also agrees to accord to the products of the other MFN treatment with respect to the allocation of and access to the currency needed to pay for imported goods. In addition, each country agrees to grant non-discriminatory treatment to the products (with the exception of textiles) of the other country with respect to the application of quantitative restrictions and the granting of licenses.

Article II.—Under Article II, each country agrees not to impose taxes or other charges or implement regulations in a manner that disadvantages imports from the other country relative to domestic products, or to apply taxes or regulations as a means of protecting domestic production. The countries also commit to ensure that technical regulations and standards do not become obstacles to trade. In addition, Bulgaria agrees to accede to the International Convention on the Harmonized Commodity Description and Coding System, and the United States agrees to provide appropriate technical assistance. Finally, both countries agree to maintain a satisfactory balance of market access opportunities.

Article III.—This Article provides that trade is to be conducted between the two countries by means of contracts concluded as exercises of independent commercial judgment on the basis of non-discrimination and customary commercial considerations such as price, quality, availability, delivery, and terms of payment. Article III also provides that neither country will require or encourage barter or countertrade.

Article IV.—Article IV includes general provisions concerning the desirability of expanding two-way trade and commits both countries to take "appropriate measures" to encourage the expansion of commercial contacts. Both countries agree to facilitate the holding of trade promotional events and encourage their companies and citizens to participate in such events. Article IV also provides that the United States and Bulgaria will permit the duty-free importation and reexportation of articles used in trade events.

Article V.—Article V obligates each country, consistent with applicable immigration laws, to permit government commercial offices to hire directly both host-and third-country nationals. This Article also contains general provisions concerning unhindered access to government commercial offices, the encouragement of participation in the activities of government commercial offices, and access to officials at federal and sub-federal levels.

Article VI.—Article VI contains a number of provisions aimed at facilitating business transactions between the two countries. These provisions relate to the establishment of "commercial representatives," the direct hire of employees, importation of office equipment, access to office space and living accommodations, employment of agents and distributors, the stocking and distribution of samples and replacement parts, advertising, market research, and access to services provided by the governments (*e.g.*, public utilities).

Article VII.—This Article requires each country to make publicly available on a timely basis all laws, regulations, judicial decisions, and administrative rulings relating to trade, investment, and other commercial matters. In addition, Article VII requires each party to permit nationals and companies of the other country to comment on the formulation of rules and regulations which affect the conduct of business.

Article VIII.—Article VIII stipulates that, unless otherwise agreed, commercial transactions should be conducted in U.S. dollars or other convertible currency. The Article also binds the parties not to restrict the export of convertible currencies or deposits obtained in connection with trade in goods and services. Article VIII also requires non-discriminatory treatment with respect to a range of financial transactions.

Article IX.—Article IX requires each party to provide for adequate protection and enforcement for patents, copyrights, trademarks, trade secrets, and layout designs for integrated circuits. Detailed obligations are set forth in a side letter to the agreement.

Article X.—In Article X, each party agrees to strive for agreements on taxation and investment issues, which would include provisions on the repatriation of profits and transfer of capital. Each party also agrees to take steps to foster economic and technical cooperation in such fields as standards and statistics. Finally, each country agrees to consult on services trade liberalization.

Article XI.—Article XI provides safeguard arrangements calling for prompt consultations and permitting the imposition of import restrictions in case of market disruption.

Article XII.—This Article incorporates a number of provisions relating to the settlement of disputes. For example, Article XII grants national treatment to the nationals and companies of either party with respect to access to the courts and administrative bodies of the other party, encourages the adoption of arbitration and sets forth desired arbitration procedures and provides that each country is to ensure that there is an effective means for the recognition and enforcement of arbitral awards.

Article XIII.—This Article stipulates that nothing in the agreement limits the right of either country to take actions to protect its national security interests.

Article XIV.—Article XIV establishes a Joint Commercial Commission to review the operation of the trade agreement and provides for prompt consultations in the case of disputes concerning the agreement.

Article XV.—This Article defines the key terms used in the agreement.

Article XVI.—This Article contains several exceptions to the agreement. The agreement is not to be construed, for example, to prohibit measures designed to secure compliance with laws which are not contrary to the purposes of the agreement, or measures to protect intellectual property rights. The agreement does not affect agreements on textiles. Also, each party has the right to deny the benefits of this agreement to any company controlled by a third country that does not have substantial business interests in the territory of that party or that does not maintain normal economic relations with that party.

Article XVII.—Article XVII deals with the entry into force of the agreement, stipulates that the initial term of the agreement will be three years, with possible extensions for three-year terms, and provides for termination of the agreement.

In separate side letters, each of which is an integral part of the agreement, Bulgaria has made additional commitments concerning the protection of intellectual property, the promotion convertibility, and other business facilitation issues.

Mr. BENTSEN. Mr. President, in the past year and a half, both countries have embarked on far-reaching political and economic changes. There has been a genuine move toward greater freedom of the press and religion and both have adopted policies guaranteeing free emigration. Both countries are forging ahead with market-based economic reforms—despite the fact that they are going through some hard times.

American companies can help Bulgaria and Mongolia achieve their economic development goals, and prompt enactment of these trade agreements is an important step toward that end.

MEASURES INDEFINITELY POSTPONED

Mr. BRYAN. Mr. President, I ask unanimous consent that calendar numbers 270 and 271 be indefinitely postponed.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ANNIVERSARY OF THE NATIONAL CANCER ACT OF 1971

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 286, Senate Joint Resolution 133, regarding the 20th anniversary of the National Cancer Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 133) in recognition of the 20th anniversary of the National Cancer Act of 1971 and the over 7 million survivors of cancer alive today because of cancer research.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

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

The joint resolution (S.J. Res. 133) was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble, as amended, was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 133

Whereas 1991 is the 20th anniversary of the National Cancer Act of 1971;

Whereas the passage of the National Cancer Act in 1971 led to the establishment of the National Cancer Program which has enabled over 7 million Americans to survive cancer, and has further led to the following progress being made against cancer:

(1) An increase in the overall cancer survival rate from 39 percent to 52 percent;

(2) A decrease in deaths from childhood cancer by 36 percent; and

(3) A decrease in deaths of persons under age 65 by 15 percent for colorectal cancer, by 25 percent for ovarian cancer, by 30 percent for bladder cancer, and by 40 percent for cervical cancer;

Whereas the National Cancer Act of 1971 has effected savings of billions of dollars, far outstripping investment in cancer research, as shown in the following:

(1) A 17 year total investment by the Government of $56,000,000 in testicular cancer research has resulted in a 91 percent cure rate, with an increased life expectancy of 40 years, and savings of $166,000,000 annually;

(2) A study of breast cancer supported by the National Institutes of Health costing $11,000,000 saves $170,000,000 annually in the treatment of women with breast cancer; and

(3) An investment of $11,000,000 in the treatment of Duke's C colon cancer by adjuvant chemotherapy saves an estimated $136,000,000 annually;

Whereas more than 1 million people will be diagnosed with cancer this year;

Whereas more than 510,000 people will die from cancer this year, or one every 62 seconds;

Whereas 7,600 children will be diagnosed with cancer this year and 1,500 children will die from cancer making it the leading cause of childhood deaths from ages 3 to 14;

Whereas 50 percent of all cancer strikes persons over age 65 and ⅔ of all cancer deaths occur in persons over age 65;

Whereas 43,000 people will die this year whose deaths could have been prevented by fully funded prevention and detection programs;

Whereas 76 million Americans alive today will be diagnosed with cancer at some point in their life;

Whereas funding for cancer research has decreased 6.2 percent over the past decade while funding for all other medical research programs has increased 37 percent;

Whereas the funding level proposed by the President for fiscal year 1992 falls $802,000,000 short of the Bypass Budget, a statutorily required budget developed by cancer experts which quantifies actual research, treatment, and prevention and control opportunities in cancer research; and

Whereas crucial priorities exist in cancer research which could provide the knowledge necessary to successfully address the increasing incidence of, and deaths caused by, the cancers which commonly afflict men and women, especially older Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress reaffirms the commitment embodied in the National Cancer Act of 1971, specifically, that funding for cancer research should be a national priority to address the scope of the cancer epidemic;

(2) the public and private sectors should join forces to provide the necessary fiscal and human resources to establish, maintain, and strengthen the National Cancer Program; and

(3) this public-private partnership should strive to provide effective treatment to every American with cancer.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECLAMATION STATES EMERGENCY DROUGHT RELIEF ACT

Mr. BRYAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 269, H.R. 355.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 355) to provide emergency drought relief to the Reclamation States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388) and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044).

TITLE I—DROUGHT PROGRAM

SEC. 101. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and State law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will mitigate, or can be expected to have an effect in mitigating, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to mitigate losses and damages from drought conditions, except that wells drilled to mitigate losses and damages from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may provide non-financial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. Except with respect to water stored, conveyed or delivered to Federal and State wildlife habitat, the Secretary shall deliver such water pursuant to temporary contracts under section 102: Provided, That any such contract shall recover any costs incurred by the Secretary in acquiring such water.

(d) WATER BANKS.—The Secretary is authorized to participate in water banks established by a State or, in the absence of such an established water bank, is authorized to establish intrastate water banks in accordance with State law in order to mitigate losses and damages resulting from drought conditions. The authorities granted to the Secretary by this title providing for the use of Federal Reclamation project facilities and the acquisition and delivery of project and non-project water for use both within and outside an authorized project service area may be used by the Secretary in establishing or participating in water banks.

SEC. 102. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and non-project water, and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project and non-project water, for use both within and outside an authorized project service area.

(b) SPECIAL PROVISIONS APPLICABLE TO TEMPORARY WATER SUPPLIES PROVIDED UNDER THIS SECTION.—

(1) TEMPORARY SUPPLIES.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first.

(2) OWNERSHIP AND ACREAGE LIMITATIONS.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(3) TREATMENT UNDER RECLAMATION REFORM ACT OF 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97-293).

(4) AMENDMENTS OF EXISTING CONTRACTS.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this Act shall not be considered a new and supplemental benefit for purposes of the Reclamation Reform Act of 1982 (Public Law 97-293).

(c) CONTRACT PRICE.—The price for project water, other than water purchased pursuant to section 101(c), delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on municipal and industrial water, except that, for project water delivered to non-project landholdings, the price shall include full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97-293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title, the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs expended pursuant to this Act shall be at a rate to be determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract or, in the case of existing facilities the rate as authorized for that Federal Reclamation project or, in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue.

(d) FISH AND WILDLIFE.—The Secretary may make water from Federal Reclamation projects and non-project water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions. The Secretary may store and convey project and non-project water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife habitat and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis.

(e) NON-PROJECT WATER.—The Secretary is authorized to store and convey non-project water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 102(c) of this Act.

(f) RECLAMATION FUND.—The payment of capital costs attributable to the sale of project or non-project water or the use of Federal Reclamation project facilities shall be covered into the Reclamation Fund and be placed to the credit of the project from which such water or use of such facilities is supplied.

SEC. 103. LOANS.

The Secretary of the Interior is authorized to make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages, including those suffered by fish and wildlife, resulting from drought conditions. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate: Provided, That the Secretary shall not approve any loan unless the applicant can demonstrate an ability to repay such loan within the term of the loan: Provided further, That for all loans approved by the Secretary under the authority of this section, the interest rate shall be the rate determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with periods to maturity comparable to the repayment period of the loan. Sections 203(a) and 220 of the Reclamation Reform Act of 1982 and sections 105 and 106 of Public Law 99-546 shall not apply to any contract to repay such loan. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives in writing of any loan which he intends to approve not less than thirty days prior to granting final approval.

SEC. 104. DEFERMENT OF PAYMENTS.

The Secretary is authorized to defer without penalty or additional interest, the payment of any installment of charges including operation and maintenance costs owed to the United States by irrigators as he deems necessary because of financial hardship caused by drought conditions: Provided, That any deferment shall be recovered and such recovery may be accomplished by extending the repayment period under the contracting entities' existing contracts with the United States.

SEC. 105. APPLICABLE PERIOD OF DROUGHT PROGRAM.

(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States has made a request for temporary drought assistance and the Secretary has determined that such assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

TITLE II—DROUGHT CONTINGENCY PLANNING

SEC. 201. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

SEC. 202. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare or participate in the preparation of cooperative drought contingency plans (hereinafter in this title referred to as "contingency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 203. PLAN ELEMENTS.

(a) PLAN PROVISIONS.—Elements of the contingency plans prepared pursuant to section 202 may include, but are not limited to, any or all of the following:

(1) One or more water banks whereby the Secretary and project and non-project water users may buy, sell, and store water consistent with State law, including participation by the Secretary in water banks established by the State.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas in order to mitigate the effects of drought and which are consistent with Federal and State law.

(4) Use of Federal Reclamation project facilities to store and convey nonproject water for agricultural, municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage and increased use of ground water resources for temporary water supplies.

(6) Water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) FEDERAL RECLAMATION PROJECTS.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects:

(1) those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project; and

(2) those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) COMPLIANCE WITH LAW.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a), and the Fish and Wildlife Coordination Act, and shall be in accordance with applicable State law.

(d) REVIEW.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 204. RECOMMENDATIONS.

(a) APPROVAL.—The Secretary shall submit each plan prepared pursuant to section 202 to the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation, if needed.

(b) PACIFIC NORTHWEST REGION.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States in the region and the Administrator of the Bonneville Power Administration.

SEC. 205. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 202 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

SEC. 206. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) TECHNOLOGY TRANSFER PROGRAM.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting cost-shared field studies to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 303 of this Act (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $90,000,000 in total for fiscal year 1992, 1993, 1994, 1995, and 1996.

SEC. 302. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this Act. In carrying out the authorities under this Act, the Secretary shall give specific consideration to the needs of fish and wildlife, together with other project purposes, and shall consider temporary operational changes which will mitigate, or can be expected to have an effect in mitigating, fish and wildlife losses and damages resulting from drought conditions, consistent with the Secretary's other obligations.

SEC. 303. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized to complete the design and specifications for construction of a device to control the temperature of water releases from Shasta Dam, Central Valley Project, California, and to construct facilities needed to attach such device to the dam. There is authorized to be appropriated to carry out the authority of this section, not more than $12,000,000.

SEC. 304. CONSISTENCY WITH STATE LAW.

All actions taken pursuant to this Act pertaining to the diversion, storage, use, or transfer of water shall be in conformity with State law.

SEC. 305. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the exchange, impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.

SEC. 306. REPORT.

There shall be included as part of the President's annual budget submittal to the Congress a detailed report on past and proposed expenditures and accomplishments under this Act.

SEC. 307. FEDERAL RECLAMATION LAWS.

This Act shall constitute a supplement to the Federal Reclamation laws.

TO PROVIDE EMERGENCY DROUGHT RELIEF TO THE RECLAMATION STATES

Mr. CRANSTON. Mr. President, the purpose of this amendment is to apply the authority established under subsection 102(d) to water made available by the Secretary of the Interior in 1991 to the Grasslands Water District for fish and wildlife purposes. Subsection 102(d) authorizes the Secretary to make water available for fish and wildlife on a nonreimbursable basis in order to help cope with drought-caused water shortages.

The Grasslands Water District represents the largest single area of wetland habitat remaining in the Central Valley. Protection of Grasslands habi-

tat is vital to maintenance of Pacific Flyway waterfowl populations, and is especially important during the current drought. Ensuring that Grasslands' habitat is available this year is critical to migratory waterfowl and would provide significant public benefits.

The authority granted under subsection 102(d) would apply to Grasslands and others upon passage of this legislation. Given the probability that the bill may not be enacted into law until late in the year, the benefits of subsection 102(d) are unlikely to be available to Grasslands until 1992. Water deliveries for wetland habitat must be made available immediately in order to provide effective benefits for waterfowl this winter. The Secretary informed the Grasslands Water District recently that water was available for their use, but only on a reimbursable basis. This amendment would ensure that the provisions of subsection 102(d) would apply to water delivered to Grasslands in 1991, regardless of when H.R. 355 is finally enacted into law.

Mr. BURNS. Mr. President, I strongly support the passage of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991. This legislation, as amended by the Committee on Energy and Natural Resources, would provide the Secretary of the Interior with both temporary contract authority to deal with the current drought situation in many parts of the West, but also permanent authority to prepare for and deal with future drought situations.

There are in essence two significant amendments to the language passed by the House. The first is to make the emergency contract authority available for 2 years rather than the 1 year in the House-passed measure. The reason is that we do not know when this legislation will be finally enacted and a 2-year provision ensures that the relief will cover at least one full cropping season. The second is to make other provisions permanent. This is the third time in 15 years that some portion of the West has been so affected by drought that Congress has had to enact almost identical relief. There does come a time when a light goes on and we learn. There is absolutely no reason why we need to wait until farms go under, reservoirs go dry, towns truck in water, and refuges and habitat disappear before we take action.

I regret that it has taken this long to move this legislation. The House acted promptly and so should have the Senate. In July, I requested that the legislation be placed on the committee's agenda and circulated amendments, which included the provisions for 2-year contract authority and making the other authorities permanent. This legislation should have been enacted then so that the authorities could have been enacted during the last fiscal year. I am happy that virtually all my amendments were adopted, but I regret the delay. The impact on drought afflicted areas continues to grow. All segments of the West have paid the price for delay. Fish and wildlife, agriculture, municipal and industrial, recreation, all aspects of the West have been impacted.

I strongly support the passage of this legislation and I hope that the House will agree with the amendments and clear this measure for the President's signature.

Mr. WALLOP. Mr. President, I rise today to support and encourage passage of H.R. 355, the Reclamation States Emergency Drought Relief Act of 1991, as amended by the Committee on Energy and Natural Resources. We have dealt with similar legislation three times in the last 15 years. To those farmers and communities trying to survive this latest crisis, the lack of responsiveness by the Senate in moving this legislation must seem unconscionable.

Mr. President, we are talking about a drought. The bill was introduced in the House on January 3 of this year. It passed the House on March 21. The Senate received it on April 11 yet it was not reported out of committee until October 8. For those whose concept of a food supply chain begins at their local supermarket, this delay may not seem unreasonable, but if you are the farmer or farm community who just lost a whole growing season waiting for the Senate to act, you would see this delay somewhat differently. Without delving deeply into the reasons for the delay, suffice it to say that this was a horse going by and some individuals decided to try to add a few things to its pack. Well, those little additions just about stopped the poor old horse.

I would like to commend Senator BURNS for his efforts to secure early passage of this measure. Had the committee acted on the measure when Senator BURNS asked that it be placed on the agenda in July, we may have been able to provide some assistance this year. The amendments which he proposed at that time had my full support and it is simply unfortunate that the committee waited until October to report the measure.

Preventing a recurrence of this scenario is the rationale for the Senate amendments to H.R. 355. When a drought occurs, as it inevitably will, again and again in our part of the country, the people who produce our food and fiber cannot wait for relief. They need help just as soon as they can get it. Our amendments differ from the House passed version in two important respects. The first is the provision of emergency contract authority for a 2-year period in order to include at least one full growing season. The second is in granting permanent authority to the Secretary to develop and implement plans to deal with future drought events. Having in-place plans and implementing procedures instead of having to pass a law for every drought just makes good public policy sense.

There may be some who would rather require a new piece of legislation for every drought. That would assure them of a periodic horse passing by that may be going their direction. But the people of the reclamation States, the West, should review that line of reasoning as sufficient reason to consider changing legislators. This is a good bill as we have amended it. It provides the necessary tools for the Secretary to immediately address drought situations as and where they arise. It enables the Bureau to act expeditiously and in full cooperation with State and local government to behave as the Federal Government should in the part of the country where it is the major landowner, like a good neighbor.

I support this legislation and encourage my colleagues to vote favorably on it.

AMENDMENT NO. 1301

(Purpose: To provide drought assistance to the Grasslands Resource Conservation District, California)

Mr. BRYAN. Mr. President, I send an amendment to the desk on behalf of Mr. CRANSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN], for Mr. CRANSTON, (for himself and Mr. SEYMOUR) proposes an amendment numbered 1301.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of subsection 102(d) add the following new sentence: "Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.".

The PRESIDING OFFICER. Without objection, the amendment (No. 1301) is agreed to.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 355), as amended, was passed.

Mr. BRYAN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. JEFFORDS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BRYAN. Mr. President, I now ask unanimous consent that at the conclusion of the remarks of the Senator from Vermont [Mr. JEFFORDS] that the Senate stand in recess under the previous order until the hour of 9 a.m., Friday, November 1.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I yield the floor and once again acknowledge the courtesy of the Senator from Vermont in allowing us to interrupt his thoughtful and very provocative presentation.

NATIONAL ENERGY POLICY ACT

The Senate continued with the consideration of the motion to proceed.

Mr. JEFFORDS. Mr. President, I beg the indulgence of all those who are still present but this is an important bill we are discussing and it is something I have been working on for some 10 years. Before the Senator from Minnesota leaves I urge him to review the bill I have, for we do not necessarily take the position that we should be energy independent. But what position I do take is that we should place ourself in the position where we have that option. And that is what we are doing.

I remind the Senator from Minnesota we had a policy similar to mine from about the forties right up through the OPEC embargo of 1973. I know because those of us who lived in the East were very much concerned about that policy. But what we did then was wall off the influx of cheap oil for the purposes of increasing our domestic production. Those of us who lived where we would like to have seen that cheap oil were naturally upset. Then, of course, when the embargo came; then things flipped around.

What we are trying to do, though, is to return to a policy where we can ensure the domestic production of fuel as we did in those years, from I guess the fifties through 1973, where we ensured our energy security and our ability to produce our own, by saying that we are going to set the price high enough in order to produce domestically.

The bill I have works in similar ways, and I would only point out in the event cheap oil is available at the time when our bill would lead us to that position where we can be energy independent if that cheap oil flows in, we get the advantage of it for the other 70 percent that we are purchasing. But we have also placed ourselves in the position where, if we so desire, we will have the ability to become energy independent because we will develop the necessary commercial, capacity and infrastructure to place us in that position.

I hope those who are interested in the environment will recognize, as I will point out, one of those options at that time will most likely be ethanol, produced from biomass. And DOE figures, which I will give, will indicate that we will have the capacity at that time to totally fuel with motor fuels from ethanol which would be global warming neutral because we would not be pulling any carbon out from the ground where it has been for millions of years and placing it up in the atmosphere, but we would be really rotating the carbon presently above ground.

Only by pursuing a plan such as mine will we be in a position to let this Nation be globally warming natural. So I hope my colleague would not just write off consideration, or feel there is no such thing as a possibility of being energy independent. The figures I will give come from the Department of Energy. They are not from JIM JEFFORDS on some late night musing.

I appreciate that very much. I thank my colleague for listening to me and I hope perhaps he will review the situation.

Mr. President, now, and I again beg your indulgence, but this is such an important issue to our Nation, so important that I have taken many hours over the past 10 years to develop this strategy. As I mentioned earlier today, it is not just my thoughts but this plan has been looked at by the Department of Energy. They endorsed a similar plan. They took it to the White House, and the White House said no, we do not think we can be energy independent, so we are not going to go that way.

This is a DOE chart with one exception—well, it is a DOE chart, basically. What this shows is a little bit of this history.

Back here before the embargo we were right down at this corner here. That is when we had a stable price of oil for all those years. Then at this point we ran into the oil embargo here and we ended up with sharp increases. This is where our consumption began to go up. Then when we really got the full impact of the embargo. During this period of time we were building a policy of energy conservation, during the years up until 1980. So our consumption was increasing at this time, but then when we got up here we suddenly put our energy policies of conservation in. We had a steep decline in consumption, reaching a low at about 1981.

Then it was also at this period of time, although this would be on a different chart with pricing, at that particular point up in here, about 1979, OPEC dropped their price from about $40 a barrel to about $20 a barrel. At that point we were in serious trouble because we suddenly had all of those programs which the Senator from Massachusetts talked about, and others, that became to be very noneconomic. Thus our whole program for developing alternatives began to come to a slowdown and eventually to a screeching halt.

It was also at that time when I recognized that the policy of trying to subsidize the price of oil as we did in synfuels would be a disaster. When they did drop the price of course it proved to be one, because we could not afford to subsidize the price differential between the price of our synthetic fuels and the price of oil which at that time had dropped well below the cost of producing synthetic fuels.

So let me go back now and just refresh everyone. What my bill does is to create a market for alternative fuels domestically produced which will be required to replace the imports. I will talk later about how we do that.

This chart was prepared by DOE, not by me. What this chart shows is the present trend of our current policy. This shows with the current policy if we do nothing that our imports are going to shoot up and up and up so that by the year 2010 we are going to be almost totally dependent on imported oil. We will be just totally dependent upon outside oil interests.

The policy of the national energy strategy by the administration, by the various methods that they have, including ANWR, pull us down. But my colleagues will note that even from about 1993, through to the year 2010 or to about 2005, we have a slight rise and then a decline when ANWR comes in, and then it shoots up again. If we were to continue, we would see that our imports would continue to shoot up and we would be up here. We would reach that same place of almost total energy dependence almost a decade or two later.

If you take the bill that is before us from the Energy Committee, the only difference with this is instead of 7.1 million barrels a day, it would be 6.1.

So it is not as good as the national energy strategy, which came to us from the White House.

I just want to alert everyone that no matter what we do, unless we do something like I recommend, we are not going to place ourselves in a position to become energy independent at any time.

I also would like to point out, while I move to the next chart, that I do not fight with anyone. You can vote for my

bill. Our plan will work with or without ANWR, with or without CAFE standards, with or without all the conservation measures in the present bill, with or without anything else. It can stand alone and do the job.

Let us take a look right now, though, especially for those who are from the Eastern States, to let them know what kind of a mess we are in again—as we have been in the past. Those of us on the Eastern seaboard are subjected, even more than the rest of the country, to the impact that we have by importing oil.

I come from Vermont; 100 percent of our oil, fuel oil is imported. The same is true with Delaware and others. All of those States in the upper part of the country, New England, are way up there. So we have the most to be concerned about.

Look how much of our money on this chart also is going overseas. My little Vermont is about $1 a day for every person in Vermont; $600,000 a day goes overseas every day. The same is true for the other States, according to population.

We want to do something about that. I do not mind and my people do not mind even if we have to pay a little bit more. But later I will show there really is no significant cost increase to the consumers. In fact, according to DOE figures, it probably will be less than we are paying now.

Now let us take a look at the impact it has on our economy, generally. I think this is important to remember as we go along—the tremendous drain on our economy at a time when we have become fragile with respect to being dependent upon economies of the rest of the world to provide our financing money, the fact that our wealth is being drained from our country and sent overseas. This shows the trade deficit and the percentage of the trade deficit, which is from petroleum.

As my colleagues can see, we are up, in 1990, to 52 percent of our trade deficit in dollars from importing oil. That is going to get worse. Remember, in the previous chart, no matter what we do, we are going to have an increase in the amount and percentage there. The only hope we have is if we increase our exports tremendously. Then that percentage will shift, but the actual amount of dollars will not change.

Again, this chart just shows the perilous situation we are in. This is the trend in our oil import situation right now. As my colleagues can see, it just shoots right up and out. This would be right up. When we get up here, we will be totally dependent on imported oil. Those are the trend lines.

As I showed on the other chart, they will change depending upon the national energy strategy, the White House, and somewhat less by the bill before us. Nothing but my proposal will do anything about changing that to a downward slope.

This is also one that should give some cause for concern. This green line is the total amount of petroleum imports. The red line is the amount which is imported from OPEC, and the blue is from non-OPEC. As we have seen from the recent problems in the Middle East, as well as the OPEC embargo, most of that OPEC oil comes from the Middle East, and thus we are very subject to interdictions, interruptions, and every one of those sends a spike into our economy.

The OPEC, after the embargo, reached a pretty high percentage, then dropped down as the price fell. Then as we brought on the North Sea oil, and these other things, the non-OPEC began to come up. This production, as we can see of the non-OPEC countries, is not increasing; it is decreasing. Where it is going to increase—barring some huge finds of oil which no one knows about—this is going to continue to increase, and this blue line is going to continue to go down.

So it demonstrates clearly that our future is dependent on the Middle Eastern or at least OPEC oil.

This next chart also demonstrates where our children's energy will come from, unless we do something. On this chart, the black is what we have left, where the oil in the world is. The red or the pink is where it used to be.

We will see in the United States, for instance, we used to have somewhere around 166.3 billion barrels of oil. We are down to 26.5. At the rate we are using this, we could use that up in a couple of years if we did not import anything. That shows how perilous our situation is. A little more in Canada. Mexico has about twice what we do. That again is only a couple years of total supply.

Then you look at where it is right now. It is all in the Middle East. That perilous situation which has had difficulties in wars for some 5,000 years is where our children's oil is going to come from if we do not give them an alternative way to find some energy sources.

This is another chart that demonstrates that. This is identified reserves and years of production at 1986 levels. This shows how many years are left in the various sources. Take Canada and the United States, 20 or less years. The same with the United Kingdom. They have 150 years' worth out in Kuwait, Saudi Arabia, and areas like that.

Now we can see by this chart also why Iraq went into Kuwait. It is a very obvious reason right there. Again, that has to give us cause for deep concern.

This next chart is pretty busy. It is pretty hard to read. The impact should not be reading each and every one, but if you can take a look at the interruptions that occurred in imported oil over the years, we will see that it was not just this last little problem in Iraq, little in sense at the time, rather they started back as early as 1954, in the Iranian fields when they were nationalized, the Suez war, the Syrian problems, the new Syrian civil war, Algerian-French—we can just go on down through there. The impact should be in the number of them and not necessarily the other aspects.

After demonstrating the problems and the perils that we have on dependency on imported oil, I would like to look at what the options are that we have with respect to our own indigenous resources.

As I will talk about briefly later, my bill opens up a free market, free from the domination of OPEC and its ability to lower its prices and thus prevent us from obtaining any capital to develop our domestic resources.

Mr. President, I wanted to let everyone know I am flying out to Wyoming tomorrow morning at 5 a.m. The reason I am keeping everyone here tonight is it is important that the provisions I am giving are available to those that are concerned about the motion to proceed. For it is my feeling that with the adoption of my amendment to the bill the business of the Senate could be expedited tremendously.

I hope we could accomplish that, and in order to try to expedite that I will expect to stay in opposition to the motion to proceed, and in the hopes we can even move the Senate rapidly by spending a little more time here tonight.

But in order to have any logic to that argument, you have to show that we have the resources with which to do the job, and that is to be energy independent if we so choose to, and my amendment would give us the option. I am not choosing any particular option, but I am merely trying to demonstrate that there are the resources available.

There are two that I will take a look at. Others, of course, will qualify. To give you an indication of where our Nation's resources are, this next chart shows you the fossil fuel resources that we have as of right now, in the sense of percentages, actually in billions of barrels of crude oil equivalent.

We have, right now, 1.980 trillion barrels of oil equivalent in coal. And the evidence is clear that we are developing and have developed ways to convert coal in a way that is even less environmentally damaging than the petroleum that we burn in our cars today. I mention that in particular because my amendment provides for two parts, one being replacement fuels to be used in automobiles with gasoline engines, as long as they may be allowable with respect to environmental concerns or clean air. So we have the resources to do it all alone with coal, as compared to just a bare 27 billion barrels of crude oil in the conventional sense of 65 billion barrels of natural gas and 560 billion barrels of shale oil.

So when you keep in mind that we are trying to accomplish two things with my amendment—first, to allow the gasoline engines that most of our cars have, and diesel engines that our cars have—we have a resource that can do it without doing something else. I want to do something else. I want to make that clear.

This is the DOE's chart that we have utilized here. These are not JIM JEFFORDS' figures or facts. They are those of the Department of Energy. The most attractive one in the long run is for those of us who have concerns about the future and what would happen if we were in a perilous situation respecting global warming. Do we want to continue to go forward with fossil fuels, which takes carbon out from under the ground where it has been for billions of years and puts it in the air and creates a global warming climate? If you believe that is bad, what are the options?

We have an option. Again, this is a DOE chart. They used this when pursuing this kind of an option. It demonstrates very clearly that—it is a very busy chart, and I will not go through all of it—we have ethanol options through the production of agriculture. This is not corn, or wheat, or whatever else. That is the present situation. But we have developed innovative, new techniques to convert even scrap paper into ethanol, through a system which is done through modern technology that does not require energy to complete in any great or significant amount. It is done through fungus growth—or I am not sure of the process, but I have been out to Colorado and have seen the experiments they have, such that we can attract the capital to develop the commercial opportunities there. Many of the resources can be grown with grasses that are periodic, so you do not have to plow or fertilize, and waste paper and sawdust and whatever else. We have more than enough capacity, without interfering with our food chain, to develop the resources necessary to fuel all of our vehicles with ethanol. We are not talking about next year, but we are talking about way into the future at times when the problems with global warming will be more pronounced.

Again, I want to remind everybody as to what happened when we tried to go another route; not the route that I have, but the route of trying to subsidize the cost or the price of a substitute fuel. This was back at the time around 1979-80 when the price of oil was up to $40, and we realized that we could utilize coal and synfuel. We spent billions of dollars. That was when I developed this concept. I recognized we were perilous under OPEC, because they could reduce the price, and at that time, Brazil—which is where I got the initial idea—was already demanding that their gasoline have at least 10 percent ethanol mixed in. They import all of their oil with huge sugar resources, and this was an inexpensive option to them relative to the cost of the oil at that time. They replaced 10 percent with no problem.

That kind of a concept developed into gasahol, which has been generally used. So we know there is a way that we can use gasahol, for instance, right now, but that requires a subsidy.

What happened here is, when I recognized that, I said what we have to do is go the other way. We have to wall off OPEC and create a separate market. I was thinking in terms of ethanol. And, as time went by, I recognized there were other options available.

The next part demonstrates what our program is. The target is replacement of 10 percent, which is easy under the full purview of the bill by 2001, because we include strip oil, which I will go through later, and a 30-percent goal by 2010. This is the only way, by having this goal. When they mentioned that goal in the bill, S. 1220, it is only the reference to the goal in the part of my bill that they took. They adopted the skeleton of my proposal, but carved out the heart and stripped off the muscles and left it as a study with a goal of 30 percent. I believe it is the only place it appears in that bill.

How do we do that? We do it through the refiners and, needless to say, that does not create any great thrill. Before anybody says, "Oh, my God, what a huge administrative burden that will be," I point out that the reformulated gasoline amendment we passed under the Clean Air Act already requires them to do all the kind of reporting and efforts that we would do. So there would be really no additional burden as far as administrative duties.

In addition to allowing them to replace their gasoline with things that can be mixed in it, we also developed a market credit system to help bring along those kinds of fuels that are independent and operate independently of the gasoline engine. That goes from electric cars to dedicated cars for methanol, ethanol, natural gas, or anything else.

In addition, of course, to the replacement side, things they can mix in could come from Canadian tar sands to United States tar sands, shale oil, and also from stripper wells, which I will mention later. So what they would do, instead of mixing in, they could buy a market credit. This would accomplish the purpose of transferring capital over to those areas where we need to develop the infrastructure and the commercialization. As I mentioned—and I will run through this briefly—we have two kinds of replacement fuels, including one that would replace gasoline in your car; and we have alternative fuels that would operate the motor outside of the utilization of gasoline or diesel fuel.

I also point out in that chart, which I am going through quickly tonight, that the clean air bill would bring along a lot of this, but not as quickly as we would. We are totally consistent with the clean air bill. In fact, we make it work faster and more efficiently.

What are the consumer costs? There will be arguments made that, yes, that is fine, but, good Lord, it is going to cost. What we do is mix those marginal cost differences into the price of gasoline. If you start out at 1 percent, even if you have a huge difference, a higher price for the fuel you are mixing, you spread it over the other 99 percent, and it becomes a very small amount.

This is again the Department of Energy material, not mine. This was their case. They indicated that we would have a 2½-cent increase in the price of gasoline at the maximum point that year, around 2010, when everything that is being geared up is going into play. From that point on we will most likely have a decrease in the cost.

In fact, using a different one—this was one set of scenarios—using their own scenario they believe it would only go up to about .6 of a cent and actually end up in the outyears about 2020, 2015, in that area. It would actually result in a lower price for various reasons, not the least of which is as we decrease our consumption of imported oil it is going to put pressures on to lower the price and therefore it would be helpful in that regard.

Now, this is important. You are going to hear even 2½ cents, 5 cents, 10 cents, whatever you want to argue, is going to be a huge increase. If you took a look at the real cost we are paying for gasoline now, not the cost that you are paying at the pump, but all the taxes and expenditures, all the costs of military operations in the Middle East, et cetera—and this is not my figure, this is the figure from the chairman of the Energy Committee, Senator JOHNSTON from Louisiana—the real cost of a barrel of oil is not $20; it is $200.

So, that gets you down to a very high price per gallon if you divide that by 42 gallons per barrel. You can see you are talking about $5 a gallon gasoline. There are a lot of figures. None as good as Senator JOHNSTON's. You can find figures, even $300, even Greenpeace and environmentalists get up to $459 a barrel. I use the one we have, of course, and I have eminent faith that is correct, from the chairman of the Energy Committee. That is about $5 a barrel actual cost per gallon of gasoline. Our cost would be well below that as far as any of the alternatives you can choose are going to be below that.

Again, this is another way, and I will not go through it this evening. It gives you an idea of the total, how we figure it out. DOE came up with figures. JOHNSTON came up with the figures on what the real cost per barrel of oil is.

I would hope at this point we would recognize that we have demonstrated a

plan, we have demonstrated that that plan if it worked would put us in a position where we could be energy independent by the year 2010 and allow us at that point where we have a 30 percent displacement of our crude oil we could make the decision as to whether or not we want to go all the way out. If by that time, the world is at peace, the nations that supply the oil are very reasonable and the price is stabilized, we could just leave that option open and continue. No one would get hurt. Businesses would still have their share of the market and they could produce at a profit and we would be in a position that if the prices were coming down our prices would go down.

Let me tell you how the refiner can meet the 10-percent goal, and I will go over that briefly. They have several options. First and overall, they can blend in replacement fuel. It could come from stripper wells. It could come from reformulated gasoline. It could come from methanol. It could be from tar sands, oil shale, coal, a lot of things.

They say, oh, no, we do not want to do that. What else can they do? They can buy a market credit. They can find an ethanol producer and get credit for the ethanol being produced and put in the marketplace and used for motor fuel. They could also go to other alternatives for methanol, domestic methanol or other matters, and in addition to that they could produce themselves options, including natural gas, neat alcohols, electric vehicles, hydrogen. They could buy market credits from the option.

The market credit—what is that? Is that a mystery thing? We have done it in other areas, and the clean air bill in particular has a market credit built in similar to this. It is working or going to work well. It is in its infancy but we have shown this program to the author of the market credit and he found it very, very workable.

So I just say that all those options are going to be open. Nobody is going to get hurt that bad.

Now, stripper wells. Why do we bring stripper wells into this scenario? I will be candid with you. There are a lot of stripper wells out there. That obviously makes it more attractive for those people who have stripper wells. Why would we do it?

First of all, stripper wells are those that produce a couple barrels a day and they produce significant amount of oil, but it is from a very defined and depleting supply. It will phaseout somewhere just about the time that we would expect the alternatives would be ready because of the capital necessary, the time necessary to build the plants, and all. It would be phasing out at about the time they are phasing in. So we would have a very gentle phase-in period where most of it can, where we get geared up and work out administrative problems, and all that would come from stripper wells. But as those go down, and I will point out they will go down much lower because the demand would be there to increase the prices of stripper wells as they would be competing with probably higher price options.

Thus, the owners of stripper wells would be getting a better price for their oil as time goes by and, in addition to that, it would increase the amount of oil which we could get from the stripper wells because of that higher price and, therefore, we would increase domestic production from the stripper wells' capacity.

Again, I just show you that a stripper well produces about 2¼ barrels a day, and in the United States wells the average well produces about 12 barrels a day. You go to Saudi Arabia, and look what they are producing out of a well, or Iraq or Iran or Kuwait. It is just an incredible difference what they get out of their wells to show you how bad off we are in the science of energy production.

Again, this chart—I will not go over it this evening, but it shows what would likely be the increase in production from stripper wells as the price increased.

The final chart and the final part of my evening presentation, which I am so appreciative of your patience, indicates what we are trying to accomplish and states it very briefly. We will be on our way to energy independence in the year 2010. We will be able to make that decision as to whether or not it is in the best interest of this country to pursue and go forward. We will have options available to take care of global warming, which we do not have now. We will have options available to increase our ability to control our economy. We will create thousands of jobs. We will create the capacity to make this country strong and to solve economic problems. We will reduce the greenhouse gas emissions, as I said, in places where all the emissions are in this Nation. We will be in a position to reduce those substantially and without impacting our economy.

We will help our farmers and revitalize the agricultural industry of the country without significantly raising either food prices or gasoline prices. And finally, which is somewhat of a concern right now, we would lower the Federal deficit.

So if you are going to create jobs, lower the Federal deficit, end the problems of global warming and without raising significantly the price of motor fuels, it seems to me it is an option that ought to be pretty inviting to colleagues and I would hope they would take a close look at it.

I again reiterate, as I did this morning, originally a majority of the Energy Committee endorsed the bill I had in, but unfortunately later on other people, who were kind of upset with the fact that we might become independent of OPEC oil, were persuasive in some of their arguments and that scenario changed.

I would also point out there was some pretty broad support for my amendment and there is some support which has changed, and I will let you know why. We had the support of the American Gas Association, those that have the natural gas, and they were enthusiastic about it. But all of a sudden they went to neutral. Why? They discovered that half the natural gas, or well over half, is owned by oil companies. Those that have foreign interests in oil overseas would be adversely impacted.

Coal was strong behind us for a while and had the people in who said this is a great thing, and then, lo and behold, what happened? They discovered that either the coal was owned by foreign businesses or most of it was owned by the oil companies with interests over in OPEC, and thus they are now neutral. They are not in opposition.

But we have the support from the Sierra Club that recognizes especially the ultimate advantages environmentally by going this way. We have the renewable resource organizations back of us as well as a number of others which I will reiterate at a later time.

Mr. President, I certainly appreciate your indulgence here. I know a lot of this is repetitious to you, because we discussed this personally, but I hope that my contributions today will help us reach this goal which I think is possible and I think we should be at, and that is putting ourselves in a position to become energy independent.

Mr. President, again I thank you.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I may be permitted to speak notwithstanding the previous order.

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

Mr. WELLSTONE. Mr. President, first of all, I do not know if he is still here tonight, but I wish to thank the Senator from Wyoming for his apology to me while I was the Presiding Officer. As you know, Mr. President, when you are the Presiding Officer, you cannot really respond. I never had a chance to thank the Senator from Wyoming. But I did appreciate his apology. And even though we have not agreed on issues, especially in the Energy Committee, I have always found him to be direct and straightforward and honest, and I much appreciated his apology.

There was something in the statement that the Senator from Wyoming

made that I found to be very interesting, Mr. President. He pointed out that in S. 1220 we get twice as much energy savings from energy conservation as we do from new production.

Now, if that is true, Mr. President, if in S. 1220 we get twice as much energy savings with efficient energy use conservation as is the case with new production, then I would say that investing in energy conservation and efficiency is a pretty good buy.

This morning when I spoke—and I think it is worth saying one more time as we near the end of this debate before this critical vote on cloture—I pointed out that if you look at the spending priorities, rhetoric all aside, what you see is that 75 percent of the total cost of this bill is focused on coal, oil, gas, and nuclear power. Now, on the other hand, only less than a quarter of this bill is devoted to efficient energy use and renewables. A mere pittance—a mere pittance, 2 percent—is actually devoted to renewable policy.

Now if title VI, which covers energy efficiency, accounts for only 14 percent of the expenditures, and we are talking about 76 percent production oriented, and the Senator from Wyoming is right in his math that we get twice as much energy savings from conservation in this bill, then what that tells me is that by spending about one-fifth as much money on energy efficiency as production, which is what we do in this bill, we get twice as much out of it.

In other words, for the same dollar investment we get 10 times as much for efficiency provisions than we do for the production provisions. If that is the case—and I am not a Noble economist—it does seem to me that it is clear that if that is the case the priorities of this legislation then would focus on conservation and efficient energy use and renewables. That is where we get the greatest return. That is what is most respectful to the environment. That is what will make us more energy independent. That is what is better for our communities. That is what people have called for in poll after poll after poll. But that is not the priorities in this legislation.

Mr. President, I also want to take exception to something that the distinguished Senator from Louisiana, Senator JOHNSTON, said in his statement this afternoon. I do not say this in the spirit of acrimony. If the Senator is not here, I certainly will never make any remark that is acrimonious. I do not believe that. This is in the context of just an argument.

The Senator said that everything in his bill called for what he described as a "soft" energy path.

Now, the soft energy path is the terminology used in an article, a very important article written 15 years ago by one of the world's greatest energy experts, Amory Lovins.

Amory Lovins, interestingly enough, Mr. President, was here just a couple of days ago, right here in Washington, DC. He met with many staffs, and those Senators and Representatives who could come were also there. He gave a superb talk and he pointed out how much energy we could save if we took conservation and renewables seriously. As a matter of fact, Amory Lovins and his associates have identified 42 ANWR's of energy. Where are they, the 42 ANWR's? They are in our cars. I do not need to talk to you about that, Mr. President. We can drill for oil with fuel efficiency standards.

They are in our businesses. They are in our homes—42 ANWR's—in terms of what we could do by way of saved oil, saved energy, without threatening a beautiful wilderness area in our country.

But that is not the priority of this legislation. I want to be clear. We had a lot of wrangling on the floor today. But I think we really need to keep our eye on the prize, and the prize is the debate. That is what the Senator is for. People who watch our proceedings want us to be substantive.

So let me one more time make my case as to why I am so opposed to the motion to proceed. My case is as follows: S. 1220 is not an energy policy. The Senator from New Mexico said earlier today, and I was interested to hear his comments, that what disturbed him about the position that many of us have taken is that we are not interested in an energy policy. That is not true. I am interested in a credible, workable energy policy.

But S. 1220 is a nonenergy policy. It does not address the two most fundamental long-term energy problems in our country: Our growing and excessive dependence on imported energy which threatens our national security and the health of our economy; and, second—and I do not believe there has been enough discussion of this on the floor today—the threat to our world environment, namely, global warming and delayed climate change.

S. 1220 does not do anything to solve either of these problems. It does not do anything significant to solve these problems. It cannot deal with our fundamental dependence on imported oil no matter how hard we try. As I pointed out earlier, you cannot legislate geology. You just, simply cannot do it. No matter if you were to drill for oil or not in the Arctic National Wildlife Refuge, that will not change the fact that 3 percent of the world's oil resources are in the United States and 65 percent are in the Middle East.

I also want to make the point—and I am going to summarize my argument tonight—that even if we could drill for oil in the Arctic National Wildlife Refuge, even if you thought that was the right idea, and even if we could attain all the oil that some of the proponents of drilling in the Arctic National Wildlife Refuge say we could attain, it still would be a mistake. Oil is a fossil fuel, and fossil fuel burning releases carbon dioxide which is the principal greenhouse gas generated by human beings and the most important single cause of global warming.

The estimates by independent scientists are by the middle of the next century we are going to see an increase from 3 to 9 degrees Fahrenheit in temperature. This is the planet for our children and our grandchildren. I think it really is time that we focus attention on trying to make sure, through public policy, that we leave to our children a healthy and a beautiful and a safe planet Earth to live on.

That is not what this legislation does. As a matter of fact, it is incredible, S. 1220, if you look at it carefully—and I sit on the Energy Committee—does not even have a finding on global warming. It is as if we should make decisions about how we produce and consume energy independent of the environment. The people in this country have asked us to do something quite different.

Mr. President, let me make one other point, maybe just two other points. One has to do with what do the people want?

I want to show just one more chart. I showed it this morning, but, by gosh, at this point in the debate I think it is important to focus attention on this again.

Poll, December 1990, a national poll.

Energy conservation, priority for Government funding, 75 percent of the people said that is what they wanted. By the way, this was a nonpartisan poll in that it was taken jointly by a Republican pollster and a Democratic pollster.

Nuclear power ranked 10 percent. Coal and oil ranked 12 percent.

What do we do in this piece of legislation? We spend 75 percent for oil and for coal and for gas and for nuclear. What do we do with nuclear power? Even if I was a proponent of 200 more gigawatts of nuclear power—and I am not—the last thing I would want to do would be to jam nuclear powerplants down the throats of the people in this country.

What this piece of legislation does—See, I think there is more going on in this legislation than just ANWR. There are more flaws in this legislation than not having good fuel efficiency provisions. What this bill does is says to people in this country—I think people should know about this tonight—look, now we are moving to one-step, not two-step nuclear power licensing. You get one chance, one public hearing that is at the time of the original construction. Then, when you get to the operational phase, you do not get to have another hearing. You literally cut the public out of participation.

We live in a democracy. Tonight, one of the many reasons I am opposing this

motion to proceed is that I am absolutely opposed to, in a democracy, cutting people, citizens, out of the public participation process. Those women and those men and their children have every right, when a nuclear powerplant is sited right on top of them, to make sure that that plant will meet their health and meet their safety needs and concerns.

Tonight I have heard so much about technology, over and over and over again. We have not solved the problem of what we do with the more nuclear wastes we generate. This bill does not take us down this path. What the people said in public hearings was give us consideration. What the people said was give us efficient energy use. What the people said was let us make a 20-year transition and get serious about renewable energy policy. What the people said in the public hearings was we want to be protective of the environment.

Instead, what we have is a piece of legislation which does what? It says we will drill for oil in the Arctic National Wildlife Refuge, we will not have serious, credible fuel efficiency standards, and we will build more nuclear powerplants and generate more nuclear waste.

I will tell you tonight, I know what happened. We had a debate a long time ago in the Senate about campaign finance. I will tell you what happened. Once the people got cut out of this in the public hearings that were held around the country and energy policy came to Washington, DC, oil companies took over. There was $20 billion to be made by oil companies oil drilling in the Arctic National Wildlife Refuge.

We are forgiving the nuclear power companies. I wonder how many people know that this piece of legislation writes off, forgives, $11 billion of debt to the nuclear power industry. Do many Senators who are going to vote on this tomorrow know this—$11 billion?

Mr. President, let me just conclude by reading a few letters that I would like to have printed in the RECORD, if at all possible.

National Taxpayers Union.

DEAR SENATOR: It is our understanding that S. 1220, the Johnston-Wallop bill may be coming to the Senate floor next week. We strongly urge you to reject this legislation by opposing any motion to proceed to consideration of this bill.

I will not read the whole letter but one paragraph I think is very telling.

Yes, this country is in need of a national energy policy; it should not, however, be based on taxpayer subsidies to energy industry special interests. The Johnston-Wallop bill forgives $11 billion of unrecovered costs owed to the U.S. Treasury by the commercial customers of the Department of Energy's Uranium Enrichment Program.

Mr. President, $11 billion. That is why the National Taxpayers League is opposed to this.

A letter from Friends of the Earth:

Title XIV of the bill provides for open-ended funding authorization for the government to conduct a coal-based synthetic fuels demonstration and commercialization program for a host of applications, including refining and transportation fuels.

I go on, and the main point is:

This provision resuscitates the late, unlamented Synthetic Fuels Corporation, and would lead to the waste of untold hundreds of millions of taxpayer dollars.

Mr. President, I ask unanimous consent both these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

FRIENDS OF THE EARTH,
Washington, DC, October 30, 1991.

DEAR SENATOR: We are writing to express our opposition to the "National Security Act of 1991," S. 1220 and specifically to Title XIV, the coal section. We believe that these issues cannot be satisfactorily resolved by a series of amendments on the Senate floor and we therefore urge that you vote against cloture on S. 1220.

Title XIV of the bill provides for open-ended funding authorization for the government to conduct a coal-based synthetic fuels demonstration and commercialization program for a host of applications, including refining and transportation fuels. The provision also calls for "commercial scale" synthetic fuels demonstration projects, at least two of which would be constructed by the year 2000. This provision resuscitates the late, unlamented Synthetic Fuels Corporation, and would lead to the waste of untold hundred of millions of taxpayer dollars.

Additional provisions would spend taxpayers' dollars promoting the expanding use of coal through the export of U.S. produced coal and coal technologies. Particularly disturbing is a proposal for a Cabinet-level Council to promote coal-technology exports. This would place the U.S. in the position of urging foreign countries, particularly third world nations, to develop undue dependence on coal. This simply ignores the fact that coal is a significant source of carbon dioxide and is the fuel with the greatest greenhouse impact.

This title would also allow power plants which undergo extensive modifications to be exempt from the new source provisions of the Clean Air Act. This means that power companies would be able to replace much of their plants (up to 50% of the cost of a new power plant) and not be required to upgrade their air pollution control equipment.

This bill does not address the need for a long-term, sustainable, and environmentally sound energy strategy, and Title XIV, in particular, runs counter to such a needed strategy. Once again, we urge you to vote against cloture on S. 1220.

Sincerely,

BRENT BLACKWELDER,
President.

NATIONAL TAXPAYERS UNION,
Washington, DC, October 25, 1991.

DEAR SENATOR: It is our understanding that S. 1220, the Johnston-Wallop bill may be coming to the Senate floor next week. We strongly urge you to reject this legislation by opposing any motion to proceed to consideration of this bill.

Although, provisions relating to the Arctic National Wildlife Refuge [ANWR] and corporate average fuel economy [CAFE] standards are in the public eye, this bill has other provisions that are as controversial as they are costly to the taxpayers. In fact, the Congressional Budget Office reported that costs of this bill would exceed $7 billion over the next 5 years.

This country continues to be in the midst of a fiscal crisis. In September of 1991, our national debt crested $3.5 trillion, and continues to grow at an alarming rate. The aggregate debt, of course, is fueled by staggering deficits. The CBO says that the Fiscal Year 1991 deficit will be $279 billion and projections for Fiscal Year 1992 are now at $362 billion. Congress must change its spending habits.

Yes, this country is in need of a national energy policy; it should not, however, be based on taxpayer subsidies to energy industry special interests. The Johnston-Wallop bill forgives $11 billion of unrecovered costs owed to the U.S. Treasury by the commercial customers of the Department of Energy's Uranium Enrichment Program. Moreover, taxpayers may be left on the hook to pay for clean-up of the three plants that produce enriched uranium, estimated to be anywhere from $4 billion to $37 billion. Neither of these additional costs have been figured into the CBO cost estimate for the bill.

In addition, the Johnston-Wallop bill allows for an open-ended authorization to revive synthetic fuels development, as well as a blank check to help the DOE develop an "advanced" nuclear reactor.

The Johnston-Wallop bill is loaded with enormous subsidies to the energy industry. Subsidies cost the taxpayer billions of dollars by steering the market place away from the least cost options. Rather than creating a sound energy policy this bill gives away billions of taxpayer dollars to some of the nation's most powerful special interests. We urge you to protect the taxpayer by voting against cloture on the motion to proceed.

Sincerely,

JILL LANCELOT,
Director, Congressional Affairs.

Mr. WELLSTONE. Mr. President, I could go on, and tomorrow, perhaps in the last half hour of debate, I will get a chance to read from some other documents. I will just tell my colleagues right now, that when you look at the efficiency conservation provisions there are titles, but when you look at them you are not talking about mandates. It is voluntary, and you are talking about hardly an funding.

I will tell my colleagues something right now, every single—or I should not say that. But as far as I can tell, many of the people who have done the most important work about efficient energy use and conservation, including the energy conservation coalition, maintain that this legislation does not even begin to take us down the path of saving energy, conservation, and renewables.

Mr. President, let me conclude this way. It is a nonenergy bill. It is not what this country needs. It is not what the vast majority of people have called for.

We focused today mainly on oil drilling in the Arctic National Wildlife Refuge. We should. I think, from the point of view of someone who loves the envi-

ronment, it would be a disaster. Moreover, I think it is crazy to rely on continuing fossil fuels.

But above and beyond that, there are other things to point out. Again, strong fuel efficiency standards are not here. We need to deal with the Bryan bill. We need to deal with that bill separately that establishes credible fuel efficiency standards.

People are cut out of the public participation process when it comes to nuclear power. I think that is a terrible mistake; not a step forward, but a huge step backwards.

When it comes to public utilities, the PUHCA reform, how many people in this country are experts on PUHCA? Until I came to the U.S. Senate and sat on the Energy Committee, I did not know what it was. But everybody turns their light switch on and off. I will tell the Senate something, we are talking about, with PUHCA, the functional equivalent of do people want this deregulation of S&L's. More concentration of power, more oligopoly, maybe more monopoly; not good for consumers. That is why consumer organizations oppose this bill.

I could go on and on. I will just simply end this way. I think tomorrow we have an interesting test case, and to me the test case is this: I know that energy is not exactly a burning issue to many people in this country, but I will say, Mr. President, it is an incredibly important issue. This vote tomorrow is a historic vote. It is a historic vote.

I am not speaking against the motion to proceed, and I am not voting against cloture tomorrow because I do not want the United States of America to adopt a credible, workable, energy policy. Quite to the contrary. I know from what I see, I know from the people in Minnesota who talk to me about this, and I know as a parent what I hope for my own children and grandchildren, that we have to get serious about making a transition in this country and that transition has to be an energy policy that is respectful of the environment, that once again is focused on reducing the demand by 10 percent and tripling production through renewables.

It is all there. The wind can be harnessed, solar, domestically produced clean fuels, a focus on fuel efficiency standards and saved energy everywhere. It is all there for us.

Mr. President, the question is this: Who dominates the political process here? Do the big energy corporations? Do the big oil companies? Are they the ones that get to decide the vote? I think not. So I think the test case tomorrow is going to be whether we have a system of democracy for the few or democracy for the many. I think that is what this vote is all about. I think it is a referendum of whether or not the vast majority of people really count.

Mr. President, I would like to have another minute. I would like to thank everybody. It is late at night. Many people are here. They have been here all day. I would like to thank all the people, all the staff, Parliamentarians, everybody else, for their kindness in letting me have this opportunity to have some final words in the debate today. I look forward to the debate tomorrow. I will be ready tomorrow morning.

RECESS UNTIL TOMORROW AT 9 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 9 a.m., November 1.

Thereupon, the Senate, at 8:54 p.m., recessed until Friday, November 1, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 31, 1991:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

LISA A. HEMBRY, OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 1995, VICE DIANA D. DENMAN, TERM EXPIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR TERMS EXPIRING OCTOBER 27, 1994:

CLAIR W. BURGENER, OF CALIFORNIA, VICE ANTONIO NAVARRO, TERM EXPIRED.

JOSE A. COSTA, JR., OF FLORIDA, VICE DANFORD L. SAWYER, JR., TERM EXPIRED.

JOSEPH FRANCIS GLENNON, OF FLORIDA. (REAPPOINTMENT)

IN THE NAVY

THE FOLLOWING NAMED CANDIDATES IN THE NAVY ENLISTED COMMISSIONING PROGRAM TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

NAVY ENLISTED COMMISSIONING PROGRAM, USN

To be ensign; permanent

ADAIR, THOMAS H.
ADAMS, DOUGLAS J.
ADAMS, JOHNNY R.
AGUILERA, ROBERT W.
ARCEMENT, BRIAN K.
ARNETT, DAVID L.
ATELA, JOHN A.
BALDI, JOSEPH A.
BERRAY, CHARLES S.
BILOTTA, JAMES M.
BOBBITT, RAYMOND A.
BOGAN, DANIEL F.
BORRERO, RICARDO
BOWMAN, SHEILA M.
BRAYBOY, JAMES L.
BROTHERS, KIRT D.
BROWN, TERRANCE
BUCKLAND, TIMOTHY A.
BUNDY, RONDII M.
CADE, WILLIAM J.
CARLAN, MICHAEL J.
CARPENTIER, JOHN G.
CARROLL, CARLOS J.
CARTER, JEFFREY J.
CAWLEY, PHILLIP D.
CHILDERS, JEFFREY A.
COLEMAN, CRAIG S.
COMBS, BRYAN K.
COOK, KELVIN F.
CREED, JOSEPH W.
CUTSUMBIS, PETER M.
CYR, PHILLIP G.
DARE, ROBERT E.
DEHAAN, DAVID C.
DELATORRE, ANTHONY R.
DEWOLF, HARRY L.
DINNOCENTI, ARTHUR
DOLAN, DANIEL T.
DORRANCE, KEVIN A.
DOUGLAS, ANTHONY K.
DOUGLAS, MICHAEL A.
DUNHAM, ZACHARY K.
ELLIS, TONY L.
FARLEY, MICHAEL
FINN, KEVIN P.
FISHER, DONALD S.
FISHER, GREGORY S.
FRETER, JERRY D.
GADD, STEVEN H.
GALVIN, MARK R.
GEIGER, DANIEL
GONZALES, JOSE J.
GORDON, KIRK R.
GOURDINE, TIMOTHY
GRADY, EARL S.
GRESETH, GREGORY J.
GUTIERREZ, TONY
GUYMON, VERNON M., III
HALAMA, DAVID J.
HAMILTON, DALE S.
HAND, CHRISTOPHER E.
HAND, FRANKIE J.
HANNA, JAMES H.
HARBOLD, DOUGLAS A.
HARGREAVES, KENNETH
HASTEN, VERNON N.
HATCHER, CURTIS J.
HELMBRECHT, STEVEN B.
HENSLEY, DARRYL W.
HEYWARD, FERRANDO R.
HILL, MARICHAL L.
HOMAN, NICHOLAS M.
HUDSON, DONALD S.
HUGHES, TIMOTHY A.
HUNKINS, JAMES C.
HURSEY, BRENT A.
IBARRA, JOHN J.
JACOBS, DEAN A.
JENKINS, BENJAMIN E.
JOHNSON, TROY M.
JOHNSTON, TIMOTHY J.
JOLIE, BARON D.
JONES, THOMAS H.
KARLEN, JAMES S.
KERN, ANTHONY P.
KLAMERUS, JEFFREY M.
KNEISLER, DANIEL J.
KRAUS, JAMES A.
KRIEPS, CHRISTOPHER A.
LAVIGNE, DAVID
LEIGH, GARY
LILLY, DAMON P.
LOWMAN, MARK A.
MANTI, SETH A.
MARINAC, MARK L.
MATTHEWS, JAMES D.
MAXEY, DALE W.
MEEKS, KEEVIN W.
MILLER, ARTHUR F.
MOLINA, BENJAMIN E.
MONTESINO, LEANDRO L.
MOORE, CHRIS A.
MOORE, RICHARD O.
MORGAN, JOEL K.
NELSON, ROBERT G.
NICHOLS, JACOB A.
NORTON, SCOTT Q.
OLLICE, LAWRENCE D.
ORR, TERRY M.
PARADISE, MATTHEW C.
PAULL, ROGER D.
PEDERSON, JOEL W.
PERRIN, BRADLEY S.
PETERSON, GARY
PICKETT, PHILLIP R.
PLACE, THERESA L.
QUAN, MICHAEL G.
RAIA, GERALD P.
RAINAIRD, ALISON K.
RASMUSSEN, DAVID N.
RATHBUN, JEFFREY T.
RAWLINGS, JAMES J.
RAZINHA, JAMES A.
REGUERA, AMELIA M.
REYNOLDS, COLLEEN R.
RIGGS, RICHARD C.
ROARK, KEVIN P.
ROBERTS, DANIEL J.
RODRIQUEZ, MARTIN E.
ROGERS, GREGORY N.
ROSENTHAL, EDITH M.
ROWE, ARTHUR T.
RUPPERT, MICHELE L.
SANNER, BRIAN L.
SCHNABEL, ROBERT G.
SCHULZ, KIMBERLY J.
SCOTT, STANLEY S.
SEELEY, DALE L.
SHENENBERGER, DONALD W.
SHOEMAKER, JERRY J.
SIMONSON, WILLIAM R.
SLAYTON, DAVID
SMITH, DEBORAH M.
SOCA, ANGEL S.
SPENCER, RICHARD A.
STEVENS, R.S.
STONE, CARY R.
STRUBLE, WILLIAM D.
SUHRE, DOUGLAS R.
THOMAS, ZANE R.
THRAILKILL, SHANE A.
TUCKER, RONALD P.
VALLER, SCOTT A.
VAUGHN, DOUGLAS J.
WAGNER, RUSSELL H.
WALSER, MICHAEL D.
WARD, JOHN M.
WARNER, DOUGLAS D.
WASHINGTON, VICTOR T.
WATTS, WAYNE D.
WEATHERLY, KIRK A.
WHITESCARVER, PAUL A.
WILCOX, ALPHONSO C.
WILKINS, CHARLES A.
WILLEMSSEN, BRIAN J.
WINDOM, JOHN H.
WOMACK, RONNIE
YEGGE, STEPHEN F.
YETMAR, PAUL A.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 31, 1991:

THE JUDICIARY

REBECCA F. DOHERTY, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF LOUISIANA.

DENIS R. HURLEY, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK.

BARBARA A. CAULFIELD, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

RONALD E. LONGSTAFF, OF IOWA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF IOWA.

JOHN W. LUNGSTRUM, OF KANSAS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF KANSAS.

TERRY R. MEANS, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS.

DEPARTMENT OF JUSTICE

ROBERT Q. WHITWELL, OF MISSISSIPPI, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS.

WILLIAM D. HYSLOP, OF WASHINGTON, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF WASHINGTON FOR THE TERM OF 4 YEARS.

KEVIN C. POTTER, OF WISCONSIN, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF WISCONSIN FOR THE TERM OF 4 YEARS.

U.S. SENTENCING COMMISSION

MICHAEL S. GELACAK, OF VIRGINIA, TO BE A MEMBER OF THE U.S. SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 1997. (REAPPOINTMENT)

EXTENSIONS OF REMARKS

KATIE VATH—MISSOURI MENTAL HEALTH ADVOCATE

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. WHEAT. Mr. Speaker, I am proud to bring to the attention of my colleagues the outstanding achievements of Katie Vath of Lee's Summit, MO, a true champion in the battle to improve the quality of life for Americans with mental illnesses.

Like many other Americans whose families are touched by mental illness, Mrs. Vath became an active advocate for the mentally ill when her son developed schizophrenia as a teenager.

Since her retirement from AT&T in 1986, Mrs. Vath has devoted herself to the effort to help people with mental illness lead productive lives. She has served as volunteer executive director of the Kansas City, MO, Alliance for the Mentally Ill and has served on and chaired the Missouri Mental Health Commission.

In 1990, she was elected to the board of directors of the National Alliance for the Mentally Ill and earlier this year was honored by being named president of NAMI, a family-based organization that works to increase public awareness of mental illness.

I am pleased to congratulate Mrs. Vath on her election as president of NAMI and to express my sincere appreciation for the work she is doing on behalf of the mentally ill in Missouri and across the Nation. I am also including for the information of my colleagues a moving tribute to Mrs. Vath that appeared in the September/October 1991 issue of the NAMI Advocate.

NEW NAMI PRESIDENT KATIE VATH SETS GOALS

Reaching the millions of Americans and their families who suffer alone from mental illness is the focus of new NAMI President Catherine A. (Katie) Vath of Lees Summit, Mo.

"We know there are thousands of people who could benefit from our unique family support and education program," she says. Catherine A. (Katie) Vath, the new president of NAMI. "As families united against mental illness, we can accomplish so much more than as individuals. We offer each other emotional support, work to reduce stigma, expand research and improve services."

She especially wants NAMI to reach more ethnic minorities, consumers and young families who may be experiencing mental illness for the first time. The National Institute of Mental Health estimates that one out of four families has a loved one with mental illness.

Mrs. Vath, who retired from AT&T in 1986 after 27 years with the Bell System, has four sons, one of whom developed schizophrenia as a teenager. Her story is similar to that of many NAMI members. "In high school, my son was a member of the National Honor Society, co-captain of the football team, and an outstanding writer," she recalled. Late in his teenage years, he became increasingly withdrawn. He kept returning from college because he could not manage the stress. He reported hearing voices, became agitated, then catatonic. He had to be hospitalized. His psychiatrist said he would never recover.

"He once said to me, Mom, this illness feels awful and I am so sick. Please help me!" Mrs. Vath recalled. "I promised I would."

She saw a small newspaper notice about a seminar on schizophrenia. There she met many members of the local Alliance for the Mentally Ill, and started attending meetings. "I found comfort there," she said.

"Good information about mental illness was sparse. The NAMI literature was very helpful in learning about the disease of schizophrenia." she said. "It also relieved me from the feeling that I had done something wrong, that somehow I had been a bad mother."

She has been active in the family movement ever since. In 1986, she retired from AT&T and became volunteer executive director of the Kansas City Alliance for the Mentally Ill. She has served on and chaired the Missouri Mental Health Commission since 1986. In 1990, she was elected to NAMI's Board of Directors.

Mrs. Vath, who lives in Lee's Summit, Mo., plans to advocate on the federal level for more research into the causes of mental illness as well as for improved services to mentally ill persons in their communities. She takes a special interest in national health insurance—to see that people with mental illness have the same coverage for biologically-based brain disorders as other physical illnesses.

"Each year, NAMI has been successful in convincing Congress to increase federal dollars for research," she said. She believes the recent decision to move the National Institute of Mental Health back under the auspices of the National Institute of Health will enhance scientific research into brain disease. "This move results from a recognition that mental illness is a physical disease and should be included with other diseases to get its fair share of research funding," she said.

Mrs. Vath would like to see states and localities develop more effective community-based services for people with mental illness. "We only perpetuate the stigma of mental illness when we remove people from the community where they could benefit from a normal lifestyle," she said.

The key to a successful community-based system, is accessible services on demand, such as crisis teams, affordable housing and supported employment. "We must simplify systems of care," she said. "They are often so complex that people don't get the services they need."

She would also like to see some changes within NAMI. "NAMI's strength has always been its grassroots," she noted. "I want to empower the grassroots affiliates." The overwhelming vote of the NAMI membership at the recent national convention to require all affiliates to be chartered within state organizations, and each state organization to be chartered by NAMI, "provides a perfect opportunity to revitalize NAMI's organizational structure, and to encourage more ideas from the grassroots," she said.

All of the changes Mrs. Vath would like to see point to one central goal—to help people with mental illness lead productive, successful lives. With appropriate medical treatment and emotional support, she knows this is possible. Her son, for example, had done much better than the psychiatrist predicted. He graduated from college, and has for years maintained a steady job in competitive employment.

TRIBUTE TO HAROLD G. SHIREY ON HIS RETIREMENT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to wish a dedicated steelworker well as he retires from Copperweld. Mr. Harold G. Shirey, of my 17th District in Ohio, will retire on November 7, 1991.

Mr. Shirey is to be commended for his 35 years of dedicated work in the American steel industry. Indeed, Mr. Shirey has been a shining example of an American dream. After serving his country in the Army, Mr. Shirey joined Copperweld in the inspection department. From there, he ascended to mill finishing superintendent in 1984.

Offered early retirement due to his great contributions to the company, Mr. Shirey, the "Big Chew" joins his family and friends at Cesta's Golden Gate to celebrate on November 7, 1991.

I rise today, Mr. Speaker, to congratulate and commend a great winner for his contribution and dedication to the steel industry. Congratulations, Mr. Harold G. Shirey.

WACKO'S WILL SURELY MISS OL' BIG-HEARTED LUDLOW

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. DARDEN. Mr. Speaker, I rise today to express the disappointment of thousands of my fellow Georgians at the news that the Ludlow Porch radio show went off the air Monday after 20 years as an Atlanta fixture.

This is really bad news for Ludlow's fans, who considered him a part of their daily lives, sharing with him 4 hours a day from 9 a.m. to 1 p.m.

Born Robert Hanson, the personable ex-Marine adopted the name Ludlow Porch as a nickname on an early talk show, and the name stuck—even his wife Dianne calls him "Lud."

A friendly fellow in private as well as public, Ludlow was a popular host at East Cobb's Blue Ribbon Grill, which he owned for several years. Two regular customers, Paul McNulty and Jewel Wright remember how he'd greet each customer and, if they asked, sign copies of his books, to perfect strangers, with such endearments as "To the only woman I've ever loved."

Mr. Speaker, it's indicative of the esteem in which Ludlow Porch is held that he was featured by noted Atlanta columnist Celestine Sibley. I would like to share her column with my colleagues at this time.

[Wednesday, Oct. 30, 1991]

WACKOS WILL SURELY MISS OL' BIG-HEARTED LUDLOW

He has lent them money, found them jobs, saved them from suicide, served as best man at their weddings, pallbearer at their funerals and made them laugh and cry and think better of themselves.

And for the next two months Ludlow Porch won't be on the air to receive their calls.

"The Ludlow Porch Show," a 20-year staple on Atlanta radio, went off the air Monday, and Ludlow of the big smile and the big heart went home to make plans for a future statewide show feeling absolutely rotten.

"I'll miss them," he said. "I already miss the wackos," giving his pet name for his listeners.

"It's like tearing down the Fox," said his wife, Diane. "The phone keeps ringing."

It also kept ringing on the desk of TV writer Gerry Yandel, who wrote the story of Ludlow's departure. Having Ludlow not there amounted to heartbreak, desolation and desertion to thousands of radio listeners.

To some, like such an exuberant fan with the pseudonym Kitty Litter, it meant a fight. "We call ourselves the Grandmothers from Hell," she said. "We're mean and we won't take any funny business when it comes to Ludlow. They're saying WSB wanted to replace him with a show that would attract younger demographics. We're old, we wear flip-flops on our feet, but we're the ones with the money. Watch out for us!"

Ludlow found his fans numbered thousands a few years ago when he invited them to a wacko party at Colony Square, and 5,000 showed up.

Born Robert Hanson, the big talk-show host acquired the name Ludlow Porch as a "joke that got out of hand," he said. When he came home from Korea where he was a sergeant in the Marine Corps, he had a little fun writing authoritative letters on all kinds of subjects to the newspapers. The authority he always quoted as a philosopher or a nuclear fission scientist or a history professor bore the made-up name of Ludlow Porch.

When he began his radio career as a guest host on WRNG radio's talk show, he adopted the name as a nickname. Today hardly anybody who has known him since the Korean War, including his wife, calls him Bob. She calls him "Lud."

Ludlow's format has ever been "nothing smutty, keep it light, keep it moving, make it entertaining"—but because he is a compassionate man with ready sympathy for people in trouble, he has taken time on the air to help scores, usually asking them to talk to him off the air.

A kid in Virginia who was on drugs confessed his desperation and intent to kill himself. Ludlow persuaded him to hold off and talked to him for two hours. The young man later came to Atlanta, rehabilitated himself and now has a good job in California. A man and his wife and two children who were sleeping in their car now have jobs in Dahlonega, Ga., and are doing well.

The four-hour, 9 a.m.-to-1 p.m. Stint on WSB used only a fraction of Ludlow's time and talent. He has written 10 books, the most recent of which is "Lewis and Me and Shipper," about growing up as a stepson of columnist Lewis Grizzard's father. "I have known and loved a lot of rascals, including his son," he says.

He makes 50 or 60 speeches a year and vows that he enjoys them as much as his audience does. But that's Ludlow—on or off the air.

TRIBUTE TO A PUBLIC HOUSING MANAGER

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. WHEAT. Mr. Speaker, it is with deep sadness that I bring to the attention of my colleagues the news of a tragic drive-by shooting death in Kansas City, MO.

While such events are always disturbing, the impact of this terrible crime will long be felt in our community. The victim, 41-year-old Diana Humphrey, was a mother of three children, an exemplary public housing manager and an innocent bystander who happened to get caught in the crossfire.

I would like to share with my colleagues a moving tribute to the remarkable legacy of Diana Humphrey which was published in the Kansas City Call on September 13, 1991. The author is Joe Louis Mattox, a crime prevention officer for the Housing Authority of Kansas City, MO, and a friend and coworker of Ms. Humphrey.

[From the Kansas City Call (MO), Sept. 13-19, 1991]

TRIBUTE TO A PUBLIC HOUSING MANAGER

(By Joe Louis Mattox, PHM)

In the housing industry, a property manager is the central figure responsible for making a development attractive, safe and profitable.

Most people are attracted and rent apartments based on the way they look. Some reasons why tenants move from a complex is that they don't feel safe and maintenance service is poor. Landlords and owners cannot pay bills and make a profit on their investments if tenants don't pay rent and half of their units stay vacant.

A good property manager keeps a development looking good, does everything possible to keep the crime rate down, makes sure that the maintenance service is good and that owners get their rent.

Diana Humphrey, a 41-year-old single parent, mother of three children, was a good property manager. The residents of Wayne Miner Court say, "She was better than excellent."

Ms. Humphrey, who was killed in a drive-by shooting at her home last month, may have been the best property manager in Kansas City. I say so, not because she kept her property looking good, occupancy high and rent delinquencies low, but because she managed a public housing development that is almost free of crime and drug trafficking.

In the world of property management, managing a public housing development is the hardest job in the profession. The saying goes, "If you can manage a public housing project, successfully, you can manage anything."

What is also known in the housing industry is that property managers who have passed a test and been awarded a Public Housing Manager certificate, are in demand and can get a job anywhere.

Ms. Humphrey had a Public Housing Manager certificate. (Public Housing Managers are tested on government rules and regulations pertaining to tenant selection, rights and responsibilities of residents and owners, and eviction procedures. They know how to supervise large and small clerical and maintenance staffs, work effectively with tenant groups and law enforcement officials to reduce crime and make their safe places to live, and to get social services for their residents).

Ms. Humphrey was also what we call a manager's manager, she helped her co-workers. She taught me how to use a computer; she taught a number of managers how to recertify residents for continued occupancy, she worked week-end duty for anyone who asked; and as the first woman to ride and walk with the police in a footbeat patrol program, she made other female managers feel less apprehensive about participating in the program.

When I told Ms. Humphrey that I needed managers to take housing authority youth to events in our van, she accepted to become a driver, and said that one of her goals would be to get other managers to become drivers.

Diana was a great lady in another way. She is the only person in the African American community whom I know that signed the section on the back of their driver's license pertaining to organ donation. At her church, Palestine Baptist, Ms. Humphrey did the sign language for the choir.

For over a year, my office was in the building with Ms. Humphrey's. I will remember Ms. Humphrey walking her grounds, driving the van, assisting in the Wayne Miner Lunch room and Emergency Assistance Center, and working late to accommodate residents who couldn't bring their rent to the office until after five o'clock.

TRIBUTE TO THE UNITED VETERANS COUNCIL

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the United Veterans Council of my 17th District in Ohio as they celebrate "Let Freedom Ring Day" on November 11, 1991.

Devoted to the well-being of veterans throughout the district and the Nation, this organization has organized Let Freedom Ring Day. At 11 in the morning on November 11, church bells throughout the community will ring to commemorate Veterans Day. Additionally, this organization has arranged a ceremony to be held in the Federal Plaza Square.

Mr. Speaker, I rise on this occasion to wish the United Veterans Council the best as they celebrate Veterans Day. Best wishes and congratulations on Let Freedom Ring Day.

TRIBUTE TO JOHN ADAMS

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. DARDEN. Mr. Speaker, I rise today to pay tribute to a longtime public servant and friend of mine, John Adams, who retired this month after 8 years as tax commissioner in Floyd County, GA.

Mr. Adams is only 58, which, as you know and I know, is not as old as it used to be, but his doctor advised him to retire because of health problems.

He didn't retire his sense of humor, though. As he announced his retirement October 1, he could not resist one of the little rhymes he is known for around Rome, GA.

"From now on, my motto is 'slow down and stick around,'" Mr. Adams said.

It is a measure of the kind of man he is, that when he felt he couldn't give 100 percent to his job, he resigned.

Born in Rome, Mr. Adams served in the Georgia House of Representatives from 1970 until 1976, and again from 1980 until mid-1983 when then Governor Joe Frank Harris appointed him tax commissioner of Floyd County. He was elected to a full 4-year term in 1984 and reelected in 1988.

Mr. Adams said his doctors advised him to keep interested in politics, so he plans to "help good, qualified candidates," he said.

John Adams has been my close, personal friend over the years. When I first announced my candidacy for Congress on the courthouse steps in Rome, John Adams and a few friends he had assembled were the only ones there.

He has always been my adviser, sort of a one-man kitchen cabinet from Rome. Without a doubt, he has been my No. 1 person in Rome over the years. He is a true friend.

He is well-known for his appreciation of good food. In fact, when we were in the State legislature, he gave Speaker Tom Murphy the Varsity Drive-In Restaurant telephone number as his off-duty number in Atlanta.

John Adams is a man of good humor, integrity, and competence. We wish him well in his retirement, and a speedy return to good health. He has earned a rest, of course, but honest, hard working public servants like he has always been are sorely missed when they have to step down.

Meanwhile, he plans to go fishing and play a little golf. Good luck, John Adams.

PSYCHIATRIC ABUSES DOCUMENTED IN CUBA

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mrs. MORELLA. Mr. Speaker, I would like to bring to Members' attention an important new book, "The Politics of Psychiatry in Revolutionary Cuba," coauthored by one of my constituents, Armando M. Lago. The book makes an important contribution to our understanding of the Cuban Government's systematic denial of basic human rights, and it has been well received by psychiatric and human rights groups. The APA Monitor, a publication of the American Psychological Association, gave the book an excellent review, the text of which follows:

PSYCHIATRIC ABUSES DOCUMENTED IN CUBA

(By Tori DeAngelis)

Julio Vento Roberes, a flutist who played in two Cuban symphony orchestras, is also an amateur political cartoonist. But unlike Garry Trudeau or Patrick Oliphant, Vento was forced to spend five years in a psychiatric ward of the main Cuban state hospital for expressing his political views.

Vento's diagnosis was "acute paranoia" and "delusions that he was a defender of human rights." Altogether, he underwent 16 sessions of electroconvulsive therapy (ECT), and received large doses of psychotropic medication. Neither physicians nor psychiatrists consulted with him about his treatment. When he finally went to the ward's attending psychiatrist to show him burns on his forehead from the ECT, the psychiatrist claimed he didn't know the treatment had been prescribed.

Vento's is but one of 28 such cases in Cuba documented between 1975 and 1990 in a report by the human rights groups Freedom House (FH) and Of Human Rights (OHR). Of Human Rights, based in Washington, D.C., is devoted exclusively to seeking human rights in Cuba. The New York-based Freedom House promotes human rights and democratization internationally, according to Charles Brown, projects coordinator for the Washington branch of Freedom House and a volunteer at OHR.

Written by Brown and Armando Lago, a member of OHR's board of directors, the 190-page report details psychiatric abuse that has occurred "on a remarkable scale" in Cuba, said Brown. The report, "The politics of psychiatry in revolutionary Cuba," was released last month.

In December, Amnesty International (AI) reported three additional cases of psychiatric abuse in Cuba in a document on the general human rights situation in that country, according to Rona Weitz, deputy director of AI's Washington office.

Lago and Brown investigated reports of alleged psychiatric abuse through a large number of sources, including the Cuban exile community in the United States, AI, Americas Watch (AW), Cuban human rights groups, American journalists and the underground dissident press in Cuba, said Brown.

All the cases that came to their attention were men, although there are rumors of similar abuses of women that the team hopes to investigate, said Brown. The report erred on the side of caution, he added. "The last thing we want is for the Cuban government to use the example of a weak case to discredit the entire report."

All the political dissidents cited in the report received similar punishment for their "crimes," Brown and Lago found.

Those targeted as "troublemakers" by Cuban security officials are in most cases first interrogated at the Cuban state security headquarters in Havana, said Brown. If they don't cooperate with them and sign a confession, they are sent to one of two criminally insane wards of the state hospital, he said.

In 1988, both AI and the United Nations (U.N.) Commission on Human Rights visited one of the forensic wards of Havana Psychiatric Hospital, where most of those who don't sign a confession end up. They found the facility cramped, ill-lit and crowded, according to the FH-OHR report.

In the forensic wards, the dissidents experienced at the least extremely unsanitary and unsafe conditions, and at worst repeated rounds of ECT and psychotropic drugs, as well as rapes and beatings by "guards" and other criminally insane inmates, said Brown. Those guards were often from the ranks of the criminally insane inmates in the wards, said Brown.

One dissident, Ariel Hildalgo Guillen, reported a standard practice among some inmates of "lighting the socks on fire" of sleeping inmates, said Brown. Hildalgo also cited cases of inmates masturbating over other inmates, said Brown.

Most of the dissidents were confined for relatively short periods—several days to a few months, the report states. Three people were held for more than two years, and several were held more than once. One dissident was confined seven times.

"There is a correlation between the length of and reasons for confinement," according to the report. Those who caused trouble in prison were incarcerated for longer periods of time, the report states. Vento was an exception to this rule.

The length of stays in the forensic wards was usually short because they are apparently used primarily for interrogations, said Brown. This situation differs from the Soviet Union, where political dissidents were often labelled "sluggish schizophrenics" and kept in mental hospitals for years.

Cuba is similar to the Soviet Union in the Brezhnev era in the way it links crime and political views, according to the report.

I hope that all Members will have the opportunity to avail themselves of this information as we consider United States policy toward Cuba.

ENVIRONMENTAL REPARATIONS—A MUST

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. HERTEL. Mr. Speaker, since the third week in February of this year, over 600 oil well fires have been set ablaze in Kuwait. Now approaching November, we learn that about 10 continue to rage on—and are about to be extinguished.

Today, I am offering a resolution that I hope will be passed by the House of Representatives on the day the last oil well fire from the gulf war is brought under control. That should happen as soon as Monday or Tuesday of next week.

This resolution proposes that the United Nations designate compensation funds to begin the important phases of environmental restoration ahead for the Persian Gulf region. The first and most important step in this process will be the completion of environmental damage assessments. Money for these assessments must be made available with haste.

We must not forget that one of the biggest victims of the Persian Gulf war has been the environment. On October 17, three Subcommittees of the Merchant Marine and Fisheries Committee explored—with various task forces sent to Saudi Arabia, Kuwait, and other

neighboring countries—the extent of war-related environmental damages at sea, on land and in the air.

Congress has been steadfast in deploring the many crimes of ecoterrorism committed by Saddam Hussein. The United Nations has found the Iraqi Government liable for resulting environmental damage and has set up a mechanism for reparations to victims of war.

In all, it is the environment that has so far received the least of our attention. The U.N. Compensation Fund has been held hostage to Saddam Hussein's delibrate withholding of petroleum exports from which the fund is to derive its revenues. And, even if proceeds from Iraqi oil exports were forthcoming, there are doubts that environmental damage assessments, cleanup and restoration would receive the high priority necessary.

Ours is a world community—a planet of fragile ecosystems—that should not be wasted or plundered no matter what the cause. In the aftermath of the gulf war, we pause to compare the damage from oil well fires and oil lakes in the gulf region to the destruction caused by the *Exxon Valdez* accident in Alaska. Preliminary estimates reveal the total amount of oil intentionally discharged into the Persian Gulf by Iraq is over 30 times the amount spilled in the Prince William Sound—some 6 to 8 million barrels versus 260,000.

For the sake of the people of Kuwait, Saudia Arabia, and the other damaged gulf nations, we must call on the United Nations to bring together the world's scientific resources to perform damage assessments and to clean up and restore the ravaged gulf environment. For the sake of the world at large, we must halt ecoterrorism once and for all time.

The resolution I am introducing today urges the United Nations to set aside 25 percent of Iraqi petroleum exports provided to the U.N. Compensation Fund specifically for environmental reparations. The resolution places highest priority on the long-term environmental and public health impacts of Hussein's ecoterrorism.

The United Nations must continue to monitor and take steps appropriate to ensure oil export proceeds are available to compensate victims of the war—including the environment.

H. CON. RES. 230

Whereas the United States has deplored the unlawful acts of Saddam Hussein in encroaching the borders of Kuwait, in holding captive hostages, in plundering Kuwaiti property, in savaging the Kuwaiti people, in conducting extensive acts of "ecoterrorism" through mass destruction of natural resources, and in threatening world peace through blatant disregard of international treaties;

Whereas the United Nations Secretary-General has been directed by Security Council Resolution 687 (1991) to establish a special account to pay compensation for "any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals and corporations, as a result of Iraq's unlawful invasion and occupation of Kuwait";

Whereas the United Nations Compensation Commission, established by the Security Council, is the mechanism for determining, among others issues, the level of contributions to the fund, the allocation of funds and payments of claims, the procedures for evaluating losses, and the resolution of disputed claims;

Whereas the United Nations Compensation Commission has dual levels of responsibility, both policy-making and functional, including establishing guidelines for categorization and formal presentation of claims by type and size;

Whereas Saddam Hussein's savage sabotage of Kuwait's natural resources constitutes massive "ecoterrorism"—resulting in long-term environmental and public health damages—the vast extent of which remain unidentified;

Whereas oil intentionally discharged by Iraq into the Persian Gulf continutes to cause unprecedented environmental damage to over 400 miles of Saudi coastline;

Whereas smoke plumes from over 600 oil fires have wreaked grave environmental pollution;

Whereas massive oil lakes caused by gushing oil from sabotaged wells continue to contaminate the Kuwait desert;

Whereas the extent of the damage to fragile marine ecosystems from six to eight million barrels of oil discharged into Gulf waters has yet to be assessed;

Whereas the impact of Saddam Hussein's ecoterrorism on public health through atmospheric pollution, soil acidification, groundwater pollution and damage to crops requires investigation: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) Finds that environmental damage, atmospheric pollution, and the resulting public health injuries from the oil well fires in Kuwait and the oil contaminated coastlines in the Gulf Region require urgent and immediate attention;

(2) Requests that the Secretary-General of the United Nations monitor and encourage the export and sale of Iraqi petroleum and petroleum products to compensate for losses and damages in compliance with United Nations Resolutions 687 and 705 (1991);

(3) Requests that the Secretary-General direct the United Nations Environmental Program and other appropriate United Nations organizations to monitor the long-term environmental and long-term public health impacts resulting from the unlawful destruction of natural resources in the Gulf Region;

(4) Urges that the United Nations Secretary-General give high priority to environmental damages as a category of claims and provide a special allocation for this category in the United Nations Compensation Fund, not subject to the limits for individual claimants, and that this allocation—

(A) comprise at least 25 percent of the portion of the fund available for payment to claimants under section E of United Nations Resolution 687 (1991);

(B) include funds for consolidated claims and reimbursement to various governmental and private organizations for expedited damage assessments to the environment and public health as a result of the Persian Gulf oil fires and slick;

(C) provide for the reimbursement for costs of cleanup and restoration of the environment performed by various governmental and private organizations; and

(D) be subject to periodic review in accord with United Nations Resolution 705 (1991) specifying compensation for losses to be paid by Iraq.

PERMANENT EXTENSION OF THE LOW-INCOME HOUSING TAX CREDIT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. RANGEL. Mr. Speaker, I rise to call to the attention of my colleagues the following sign-on letter regarding H.R. 413 and the low-income housing tax credit.

Low-income housing tax credit has been a major vehicle for the construction of low- and moderate-income housing. As you know, we are in the process of winning congressional approval to make these tax credits permanent. A sign-on letter from the Community League of West 159th Street, Inc. follows:

[OCTOBER 7, 1991]

DEAR MR. CHAIRMAN: On behalf of the undersigned nonprofit community-based housing organizations from throughout the country, thank you for your leadership in introducing H.R. 413, the permanent extension of the Low-Income Housing Tax Credit. We appeal to you to find a way to pass this important legislation. Our country's housing needs are simply too urgent and too great to let this program expire.

Our communities face an affordable housing crisis of unprecedented proportions as evidenced by the following facts:

One in three Americans pay so much for housing that they cannot afford other basic necessities, according to a recent Economic Policy Institute study.

Only one of every three American households eligible for housing assistance receives it—a condition exacerbated in large measure by a 75-percent reduction in federal housing funds during the 1980s.

Among poor renters who receive no housing subsidies, 45 percent spend at least 70 percent of their meager income for housing.

As a champion of the Low-Income Housing Tax Credit, you are well aware that it is the federal government's primary tool for building low-income rental housing, and is now producing more than 120,000 units annually. It is highly targeted, with units serving very low-income residents for at least 30 years. The Credit works in our urban and rural communities in all parts of the country to rehabilitate and construct affordable apartments, single-family houses, and specially designed single-room homes that can serve homeless people and others with special needs.

We know from our experience working at the grassroots level that progress in overcoming this country's severe shortage of decent, affordable housing requires the kinds of creative solutions and especially the private sector involvement that the Credit has stimulated. The Credit has been essential to attracting corporate and individual investors to low-income housing. Each dollar of private investment has attracted an average of two more dollars from banks, states, localities, foundations, and others.

This private investor confidence and highly effective low-income housing production system can only be sustained if Congress accords the Credit the status it deserves as a permanent part of the tax code. With you help, the Credit has earned overwhelming bipartisan support in Congress, with 60 percent of all Representatives co-sponsoring your bill and 80 percent of all Senators co-spon-

soring S. 308, introduced by Senators Danforth and Mitchell, to permanently extend this program.

Nevertheless, this year, as in years past, we are deeply concerned that there is a very real possibility that the Credit will expire entirely—not for lack of support, but because it is reliant on a broader legislative vehicle for passage. This year-to-year uncertainty must end if we are to address this country's pressing affordable housing needs.

On behalf of the millions of Americans without decent, affordable homes, your efforts to find a means for permanent extension of the Low-Income Housing Tax Credit is deeply appreciated.

Sincerely,

Alaska Coalition for the Homeless, Anchorage, AK.

Alaska Community Development Corporation, Anchorage, AK.

Anchorage Neighborhood Housing Services, Inc., Anchorage, AK.

Neighborhood Services, Inc., Birmingham, AL.

BGACD Community Development Corporation, Marvel, AR.

Casa de Nueva Esperanza (House of New Hope), Phoenix, AZ.

Phoenix Revitalization Corporation, Phoenix, AZ.

PPEP Housing Development Corporation, Tucson, AZ.

Arcata Economic Development Corporation, Arcata, CA.

Berkeley Oakland Support Services, Berkeley, CA.

Bonita House, Inc., Berkeley, CA.

California Housing Partnership Corporation, Berkeley, CA.

California Community Reinvestment Corporation, Burbank, CA.

Mercy Family Housing California, Burlingame, CA.

South Bay Community Services, Chula Vista, CA.

Project Home Run, Colton, CA.

Curry Temple Community Development Corporation, Compton, CA.

Drew Economic Development Corporation, Compton, CA.

Home Ownership Made Easy (H.O.M.E.), Culver City, CA.

The Affordable Housing Coordinating Network of Santa Clara County, Cupertino, CA.

Davis Community Housing, Inc., Davis, CA.

North County Housing Foundation, Escondido, CA.

South County Housing, Gilroy, CA.

Southern California Association for Nonprofit Housing, Hemet, CA.

Hollywood Community Housing Corporation, Hollywood, CA.

Coackella Valley Housing Coalition, Indio, CA.

Centinel Services, Inc., Long Beach, CA.

Retirement Housing Foundation, Long Beach, CA.

A Community of Friends, Los Angeles, CA.

Art House/A Program of California Lawyers for the Arts, Los Angeles, CA.

Concerned Citizens of South Los Angeles, Los Angeles, CA.

Dunbar Economic Development Corporation, Los Angeles, CA.

Esperanza Community Housing Corporation, Los Angeles, CA.

Homes for Life Foundation, Los Angeles, CA.

Little Tokyo Service Center, Los Angeles, CA.

Los Angeles Neighborhood Development Corporation, Los Angeles, CA.

People Coordinated Services, Los Angeles, CA.

Skid Row Housing Trust, Los Angeles, CA.

Neighborhood Partnership of Monclair, Monclair, CA.

Maravilla Project Area Committee, Monterey Park, CA.

Civic Center Barrio Housing Corporation-San Diego, National City, CA.

Metropolitan Area Advisory Committee, National City, CA.

Alliance for the Mentally Ill (AMI), Van Nuys, Northridge, CA.

Central East Oakland Neighborhood Housing & Community Service Corp., Oakland, CA.

Community Economics, Inc., Oakland, CA.

Jubilee West, Inc., Oakland, CA.

Oakland Business Development Corporation, Oakland, CA.

Central Church of Christ, Oceanside California, Oceanside, CA.

San Diego County SER/Jobs for Progress, Inc. Oceanside, CA.

Community Housing Services, Pasadena, CA.

Pasadena Housing Alliance, Pasadena, Ca.

Greater Richmond Community Development Corporation, Richmond, CA.

Richmond Neighborhood Housing Services, Richmond, CA.

California Homeless and Housing Coalition, Sacramento, CA.

Rural California Housing Corporation, Sacramento, CA.

Sacramento Mutual Housing Association, Sacramento, CA.

California Association Mobilehome Owners, San Diego, CA.

Civic Center Barrio Housing Corporation, San Diego, CA.

Housing Opportunities, Inc., San Diego, CA.

Linda Vista Community Development Corporation, San Diego, CA.

Saint Vincent de Paul Village, San Diego, CA.

Asian Neighborhood Design, San Francisco, CA.

Community Housing Partnership, San Francisco, CA.

Housing Conservation & Development Corporation, San Francisco, CA.

Non-Profit Housing Association of Northern California, San Francisco, CA.

Pine View Housing Corporation, San Francisco, CA.

San Francisco Coalition for Low Income Housing, San Francisco, CA.

San Francisco Housing Development Corporation, San Francisco, CA.

San Francisco Renaissance, San Francisco, CA.

Tenants and Owners Development Corporation (TODCO), San Francisco, CA.

Urban Economic Development Corporation, San Francisco, CA.

Community Housing Developers, Inc., San Jose, CA.

Mexican American Community Services Agency, San Jose, CA.

San Jose Development Corporation, San Jose, CA.

Ecumenical Association for Housing, San Rafael, CA.

San Rafael Housing Corporation, San Rafael, CA.

Civic Center Barrio Housing Corporation, Santa Ana, CA.

Hermandad Mexicana Nacional, Santa Ana, CA.

Santa Barbara Community Housing Corporation, Santa Barbara, CA

Santa Cruz Community Housing Corporation, Santa Cruz, CA.

Step Up On Second, Santa Monica, CA.

Burbank Housing Development Corporation, Santa Rosa, CA.

Cabrillo Economic Development Corporation, Saticoy, CA.

Western Development for Affordable Housing, Tustin, CA.

Vallejo Neighborhood Housing Services, Vallejo, CA.

Pajaro Valley Affordable Housing Corporation, Watsonville, CA.

Homes for Life Foundation, Wetchester, CA.

Coluee-Glenn-Trinity Community Action Agency, Willows, CA.

Pikes Peak Mental Health Center, Colorado Springs, CO.

Catherine McAuley Housing Foundation, Denver, CO.

Catholic Community Services, Denver, CO.

Colorado Coalition for the Homeless, Denver, CO.

Del Norte Neighborhood Development Corporation, Denver, CO.

Denver Enterprise Center, Denver, CO.

Denver Safe House, Denver, CO.

Hope Communities, Inc., Denver, CO.

Samaritan House, Denver, CO.

Catholic Community Services, Fort Collins, CO.

Jefferson County Self-Sufficiency Project, Golden, CO.

Hall Neighborhood House, Bridgeport, CT.

The Non-Profit Development Corporation of Danbury, Inc., Danbury, CT.

Broad Park Development Corporation, Hartford, CT.

Co-Opportunity, Inc., Hartford, CT.

La Casa de Puerto Rico, Inc., Hartford, CT.

La Casa Investments, Inc., Hartford, CT.

Sheldon Oak Central, Inc., Hartford, CT.

TAINO Housing & Development Corporation, Hartford, CT.

Connecticut Association of Housing Development Corporations, New Haven, CT.

Dixwell Community Development Corporation, New Haven, CT.

Housing Operations Management Enterprises (HOME), Inc., New Haven, CT.

Neighborhood Housing of New Haven, New Haven, CT.

Nutmeg Housing Development Corporation, New Haven, CT.

Science Park Development Corporation, New Haven, CT.

Mutual Housing Association of Southwestern Connecticut, Stamford, CT.

Harambee Housing Corporation of Connecticut, West Hartford, CT.

West Hartford Interfaith, West Hartford, CT.

American Planning Association, Washington, DC.

H Street Community Development Corporation, Washington, DC.

MANNA, Inc., Washington, DC.

North Capitol Neighborhood Development, Washington, DC.

Washington, D.C. Apartment Improvement Program, Inc., Washington, DC.

Delaware Housing Coalition, Dover, DE.

Interfaith Housing Task Force of Delaware, Wilmington, DE.

Clearwater Neighborhood Housing Services, Inc., Clearwater, FL.

Welaka Neighborhood Development, Inc., Crescent City, FL.

North Florida Education Development Corporation, Gretna, FL.

East Little Havana Community Development Corporation, Miami, FL.

Haitian Task Force, Inc., Miami, FL.

New Century Development Corporation, Miami, FL.

Community Equity Investments, Inc. (CEII), Pensacola, FL.
Neighborhood Housing Services, Inc./West Palm Beach, West Palm Beach, FL.
Housing Opportunities, Inc., Gainesville, GA.
Homeless Aloha, Inc., Honolulu, HI.
Wai'anae Coast Community Alternative Development Corporation, Wai'anae, HI.
Home Opportunity Made Easy, Des Moines, IA.
Boise Neighborhood Housing Services, Inc., Boise, ID.
Idaho Migrant Council, Inc., Caldwell, ID.
Bethel New Life, Inc., Chicago, IL.
Chicago Roseland Coalition for Community Control, Chicago, IL.
Chicago Urban League Development Corporation, Chicago, IL.
Circle Urban Ministries, Chicago, IL.
Covenant Development Corporation, Chicago, IL.
Division Street Business Development Association, Chicago, IL.
Eighteenth Street Development Corporation, Chicago, IL.
Greater Southwest Development Corporation, Chicago, IL.
Jane Addams Resource Corporation, Chicago, IL.
Kenwood-Oakland Development Corporation, Chicago, IL.
Lakefront Single Room Occupancy Corporation, Chicago, IL.
Lawndale Christian Development Corporation, Chicago, IL.
Neigborhood Housing Services of Chicago, Inc., Chicago, IL.
North River Commission/NRHDC, Chicago, IL.
Organization of the Northeast, Chicago, IL.
People's Reinvestment & Development Effort (PRIDE), Chicago, IL.
Pilsen Resurrection Development Corporation, Chicago, IL.
Shorebank Corporation, Chicago, IL.
Statewide Housing Action Coalition, Chicago, IL.
The Neighborhood Institute, Chicago, IL.
Travelers and Immigrants Aid, Chicago, IL.
Uptown Center Hull House Association, Chicago, IL.
Urban Development Corporation, Chicago, IL.
Voice of the People in Uptown Chicago Illinois, Chicago, IL.
Woodlawn East Community and Neighbors (WECAN), Chicago, IL.
Woodlawn Preservation & Investment Corporation, Chicago, IL.
Shawnee Development Council, Inc., Karnak, IL.
Project Now Community Action Agency, Rock Island, IL.
Trinity House, Inc., Rockford, IL.
Bridge Communities, Wheaton, IL.
Interfaith Housing, Wynetka, IL.
Community Reinvestment Project of East Chicago, Inc., East Chicago, IL.
Community Action Program of Evansville & Vanderburgh Co., Inc., Evansville, IN.
Community Action of Northeast Indiana, Inc., Fort Wayne, IN.
LaCasa of Goshen, Inc., Goshen, IN.
Indiana Housing Network, Indianapolis, IN.
Community Action of Greater Indianapolis, Inc., Indianapolis, IN.
Fountain Square Church & Community Project, Indianapolis, IN.
Interfaith Homes, Inc., Indianapolis, IN.
Martin Luther King Community Development Corporation, Indianapolis, IN.
Riley Area Revitalization Program, Indianapolis, IN.
Main Street Richmond Wayne County Indiana, Richmond, IN.
South Bend Heritage Foundation, South Bend, IN.
Mennonite Housing Rehabilitation Services, Inc., Wichita, KS.
Catholic Committee on Appalachia, Flatsburg, KY.
Community Action Council, Lexington, KY.
Metropolitan Housing Coalition, Louisville, KY.
Frontier Housing, Inc., Morehead, KY.
Christopher Homes, Inc., New Orleans, LA.
New Orleans Neighborhood Development Foundation, New Orleans, LA.
Allston Brighton Community Development Corporation, Allston, MA.
Affirmative Investment, Boston, MA.
Boston Aging Concerns Young & Old United, Inc., Boston, MA.
Castle Square Tenants Organization, Boston, MA.
Community Development Corporation of Boston, Inc., Boston, MA.
Community Economic Development Assistance Corporation, Boston, MA.
Inquilinos Boricuas en Accion (IBA), Boston, MA.
Massachusetts Affordable Housing Alliance, Boston, MA.
Massachusetts Tenants Organization, Boston, MA.
Tent City Corporation, Boston, MA.
The Community Builders, Boston, MA.
Cambridge Neighborhood Apartment Housing Services, Cambridge, MA.
Homeowners Rehab, Inc., Cambridge, MA.
Just A Start Corporation, Cambridge, MA.
Riverside Cambridgeport Community Corporation, Cambridge, MA.
Dorchester Bay Economic Development Corporation, Dorchester, MA.
Lena Park Community Development Corporation, Dorchester, MA.
The Neighborhood Development Corporation of Jamaica Plain, Jamaica Plain, MA.
Coalition for a Better Acre, Lowell, MA.
Merrimack Valley Housing Partnership, Lowell, MA.
Back of the Hill Community Development Corporation, Mission Hill, MA.
Dudley Street Neighborhood, Roxbury, MA.
Nuestra Comunidad Development Corporation, Roxbury, MA.
Urban Edge, Roxbury, MA.
Salem Harbor Community Development Corporation, Salem, MA.
Sommerville Community Corporation, Somerville, MA.
South Boston Community Housing, Inc., South Boston, MA.
Springfield Neighborhood Housing Services Inc., Springfield, MA.
Green Island Vernon Hill Community Development Corporation, Worchester, MA.
Baltimore Housing Assistance Corporation, Baltimore, MD.
City Homes, Inc., Baltimore, MD.
Family Life Foundation, Inc., Baltimore, MD.
Neighborhood Housing Services of Baltimore, Baltimore, MD.
Neighborhood Rental Services of Baltimore, Inc., Baltimore, MD.
People's Homesteading Group, Inc., Baltimore, MD.
Saint Ambrose Housing Aid Center, Baltimore, MD.
Southeast Development, Inc., Baltimore, MD.
Tri-Churches Housing, Baltimore, MD.
Words For Life, Baltimore, MD.
Columbia Housing Corporation, Columbia, MD.
Interfaith Housing Development Corporation of the MD Eastern Shore, Easton, MD.
Garrett County Community Action Committee, Inc., Oakland, MD.
Montgomery Housing Partnership, Inc., Wheaton, MD.
The Housing Foundation, Orono, ME.
Cornerstone Alliance, Boston Harbor, MI.
Church of the Messiah Housing Corporation, Detroit, MI.
Core City Neighborhoods, Detroit, MI.
Economic Justice Commission Episcopal Diocese of Michigan, Detroit, MI.
People in Faith United Housing Corporation, Detroit, MI.
Heartside Ministries, Grand Rapids, MI.
Inner City Christian Federation, Grand Rapids, MI.
Edison Neighborhood Association, Kalamazoo, MI.
Kalamazoo Neighborhood Housing Services, Kalamazoo, MI.
Greater Lansing Housing, Lansing, MI.
Michigan Housing Trust Fund, Lansing, MI.
Muskegon Area Fair Housing Center, Muskegon, MI.
Nelson Neighborhood Improvement Association, Muskegon, MI.
Cooperative Services, Oak Park, MI.
Pontiac Neighborhood Housing Services, Inc., Pontiac, MI.
FiveCAP, Inc., Scottville, MI.
Homespun Housing, Inc., Minneapolis, MN.
Minneapolis/Saint Paul Family Housing Fund, Minneapolis, MN.
Minnesota Coalition for the Homeless, Minneapolis, MN.
Phillips Community Development Corporation, Minneapolis, MN.
Phillips Neighborhood Housing Trust, Minneapolis, MN.
Powderhorn Residents Groups, Inc., Minneapolis, MN.
Project for Pride in Living, Inc., Minneapolis, MN.
Seward Redesign, Inc., Minneapolis, MN.
The Greater Minneapolis Metro Housing Corporation, Minneapolis, MN.
Appalachian Office of Justice and Peace, Saint Paul, MN.
East Side Neighborhood Development Company, Saint Paul, MN.
Lowertown Redevelopment Corporation, Saint Paul, MN.
Selby Area Community Development Corporation, Saint Paul, MN.
West Side Neighborhood Housing Services, Saint Paul, MN.
Goodhue-Rice-Wabasha Citizens Action Council, Inc., Zumbrota, MN.
Westside Housing Organization, Campus City, MO.
Black Economic Union, Kansas City, MO.
Blue Hills Homes Corporation, Kansas City, MO.
Community Development Corporation-Kansas City, Kansas City, MO.
Inner City Rehab & Community Development Corporation, Kansas City, MO.
Mercy Housing Kansas City, Kansas City, MO.
New Horizons Assistance Corporation, Kansas City, MO.
Twelfth Street Heritage Development Corporation, Kansas City, MO.
Ecumenical Housing Production Corporation, Saint Louis, MO.
Forest Park Southeast Housing Corporation, Saint Louis, MO.

Northside Residential Housing Corporation, Saint Louis, MO.
O'Fallon 2000, Inc. Community Development Corporation, Saint Louis, MO.
Saint Louis Association of Community Organizations (SLACO), Saint Louis, MO.
Town of Bolton Development Corporation, Bolton, MS.
Metcalfe Industrial Development Foundation, Inc., Greenville, MS.
Mississippi Action for Community Education, Inc. (MACE), Greenville, MS.
Big River Housing Development Corporation, Inc., Marks, MS.
Quitman County Development Organization, Inc., Marks, MS.
Quitman County Federal Credit Union, Marks, MS.
Central Mississippi, Inc., Winona, MS.
District XI Human Council, Missoula, MT.
Community Development of Beaufort-Hyde, Inc., Belhaven, NC.
Center for Community Self-Help, Durham, NC.
UDI Community Development Corporation, Durham, NC.
Guilford Native American Association, Greensboro, NC.
Western Greenville Community Development Corporation, Greenville, NC.
Joint Orange-Chatham Community Action, Inc. (JOCCA), Pittsboro, NC.
Downtown Housing Improvement Corporation, Raleigh, NC.
North Carolina Low Income Housing Coalition, Raleigh, NC.
Downtown Area Revitalization Effort, Inc., Wilmington, NC.
Wilmington-New Hanover Community Development Corporation, Wilmington, NC.
East Winston Community Development Corporation, Winston-Salem, NC.
Holy Name Housing Corporation, Omaha, NE.
Mercy Housing Omaha, Omaha, NE.
New Hampshire Coalition for the Homeless, Manchester, NH.
Tri-County Community Action Agency, Bridgeton, NJ.
Fairmount Housing Corporation, Jersey City, NJ.
Let's Celebrate, Jersey City, NJ.
Monarch Housing Associates, Montclair, NJ.
Homes of HOPE, Inc., Mount Holly, NJ.
Coalition Six, Newark, NJ.
New Community Corporation, Newark, NJ.
Newark Apartment Improvement Program, Newark, NJ.
H.A.N.D.S., Inc., Orange, NJ.
Arbor Hill Development Corporation, Albany, NY.
Cayuga County Homesite Development Corporation, Auburn, NY.
Bellport Hagerman East Parchogue Alliance, Inc., Bellport, NY.
Allegany County Community Opportunities & Rural Development Corp., Belmont, NY.
Banana Kelly Community Improvement Association, Inc., Bronx, NY.
Bronx United & Leveraging Dollars (BUILD), Bronx, NY.
Council of Bronx River Association, Bronx, NY.
M.B.D. Community Housing Corporation, Bronx, NY.
United Bronx Parents, Inc., Bronx, NY.
Astella Development Corporation, Brooklyn, NY.
Brooklyn Neighborhood Improvement Association, Inc., Brooklyn, NY.
East New York Urban Youth Corps, Brooklyn, NY.
Saint Nicholas Neighborhood Preservation Corporation, Brooklyn, NY.
Southern Brooklyn Community Organization (SBCO), Brooklyn, NY.
The Church of Saint Mark Episcopal, Brooklyn, NY.
The Miracle Makers, Inc., Brooklyn, NY.
Broadway-Fillmore Neighborhood Housing Services, Inc., Buffalo, NY.
Clayton Improvement Association, LTD, Clayton, NY.
Cuba Community Development Corporation, Cuba, NY.
Housing Assistance Program of Essex County, Inc., Elizabethtown, NY.
Southern Tier Office of Social Ministry, Elmira, NY.
Community Unified Today, Inc., Geneva, NY.
Marble City Housing Corporation, Gouverneur, NY.
Housing Help, Inc., Greenlawn, NY.
North Fork Housing Alliance, Inc., Greenport, NY.
Better Housing for Tomkins County, Inc., Ithaca, NY.
Triumph Ministeries, Jamaica, NY.
Friend's of Keeseville, Inc., Keeseville, NY.
Hunters Point Community Development Corporation, Long Island, NY.
Abyssinian Development Corporation (ADC), New York City, NY.
Asian Americans For Equality, New York City, NY.
Association for Neighborhood and Housing Development, New York City, NY.
Community Housing Association of Managers and Producers, New York City, NY.
Community League of West 159th Street, New York City, NY.
Community Service Society of New York, New York City, NY.
Ecumenical Community Development Corporation, New York City, NY.
El Barrio's Operation Fightback, New York City, NY.
FIND Aid for the Aged, Inc., New York City, NY.
Grosvanor Neighborhood, New York City, NY.
Harlem Restoration Project, Inc., New York City, NY.
Homeward Bound Community Services, New York City, NY.
Housing Service, Inc., New York City, NY.
J-H-G Management Corporation, New York City, NY.
Jerico Project, New York City, NY.
Metropolitan New York Coordinating Council on Jewish Poverty, New York City, NY.
New York Housing Now! New York City, NY.
Northern Manhattan Improvement Corporation, New York City, NY.
Probase, Inc./Project Basement, New York City, NY.
SAIF Advisory Committee, New York City, NY.
Settlement Housing Fund, Inc., New York City, NY.
West Harlem Group Assistance, Inc., New York City, NY.
Woodstock Housing Development Fund Corporation for Senior Citizens, New York City, NY.
PODER, Inc., Newburgh, NY.
Keuka Housing Council, Inc., Penn Yan, NY.
SHARP Committee, Inc., Phoenicia, NY.
New Rochelle Neighborhood Revitalization Corporation, Rochelle, NY.
Bishop Sheen Ecumenical Housing Foundation, Inc., Rochester, NY.
Lewis Street Center, Inc., Rochester, NY.
Rural Opportunities, Inc., Rochester, NY.
Urban League Economic Development Corporation, Rochester, NY.
Roosevelt Assistance Corporation, Rochester, NY.
Western Catskills Community Revitalization Council, Inc., Stampford, NY.
Akron Summit Community Action Agency, Akron, OH.
East Akron Neighborhood Development Corporation, Akron, OH.
Alliance Housing Task Force, Alliance, OH.
Corporation for Ohio Appalachian Development, Athens, OH.
Ohio Rural Housing Coalition, Athens, OH.
Development Corporation for Cincinnati, Cincinnati, OH.
Franciscan Homes Development, Inc., Cincinnati, OH.
Owning the Realty, Inc., Cincinnati, OH.
Walnut Hills Redevelopment Foundation, Inc., Cincinnati, OH.
Pickaway County Community Action, Inc., Circleville, OH.
Broadway Area Housing Coalition, Cleveland, OH.
Clark-Metro Development Corporation, Cleveland, OH.
Cleveland Housing Network, Cleveland, OH.
Cleveland Neighborhood Development Corporation, Cleveland, OH.
COHAB, Inc., Cleveland, OH.
Detroit Shoreway Community Development Organization, Cleveland, OH.
Famicos Foundation, Cleveland, OH.
Glenville Development Corporation, Cleveland, OH.
Housing & Neighborhood Development Services (HANDS), Cleveland, OH.
Lutheran Housing Corporation, Cleveland, OH.
Mount Pleasant Now Development Corporation, Cleveland, OH.
Near West Housing Corporation, Cleveland, OH.
NOLASCO Housing Corporation, Cleveland, OH.
Stockyard Area Development Association, Cleveland, OH.
Union Miles Development Corporation, Cleveland, OH.
University Settlement, Cleveland, OH.
Columbus Housing Partnership, Inc., Columbus, OH.
Columbus Neighborhood Housing Services & CNHS Development Corp., Columbus, OH.
Friends of the Homeless, Columbus, OH.
Ohio Capital Corporation for Housing, Columbus, OH.
Ohio Housing Coalition, Columbus, OH.
South of Main Development Corporation, Columbus, OH.
The Ohio Coalition for the Homeless, Columbus, OH.
County Corp, Dayton, OH.
Dayton View Community Development Corporation, Dayton, OH.
Edgemont Neighborhood Coalition, Inc., Dayton, OH.
Saint Ann's Huffman Area Neighborhood Development Corporation, Dayton, OH.
Saint Martin Development Corporation, Dayton, OH.
Home/Casas, Inc., Fremont, OH.
Marion H.A.N.D., Inc., Marion, OH.
Medina Metropolitan Housing Authority, Medina, OH.
LEADS Community Action Agency, Newark, OH.
Hutton House, Steubenville, OH.
Information & Referral Service of Catholic Charities, Steubenville, OH.

Jefferson County Coalition for Homeless/Housing, Steubenville, OH.
Jefferson County Community Action Council, Inc., Steubenville, OH.
The Urban Mission Ministries, Inc., Steubenville, OH.
Collingwood Spring/Old West End Partnership, Toledo, OH.
Toledo Warehouse District Association, Toledo, OH.
Kno-Ho-Co Community Action Commission, Warsaw, OH.
Community Housing Options Involving Cooperative Efforts (CHOICE), Youngstown, OH.
Washington County Community Action Organization, Aloha, OR.
Rose Community Development Corporation, Portland, OR.
Pennsylvania Rural Opportunities, Camp Hill, PA.
Central Pennsylvania Development Corporation, Clearfield, PA.
Duquesene Business Advisory Corporation, Dusquesne, PA.
Housing Development Corporation, Lancaster, PA.
Santo Gairo, Langhorne, PA.
Allied Human Services Association, Inc., New Castle, PA.
ACORN Housing Corporation of Pennsylvania, Philadelphia, PA.
Black Lutheran Community Development Corporation, Philadelphia, PA.
Central Germantown Community Development Corporation, Philadelphia, PA.
Centro Pedro Claver, Inc., Philadelphia, PA.
Community Ventures, Inc., Philadelphia, PA.
Greater German Housing Development Corporation, Philadelphia, PA.
Hispanic Association of Contractors and Enterprises, Philadelphia, PA.
Hunting Park Community Development Center, Philadelphia, PA.
Hunting Park Community Development Corporation, Philadelphia, PA.
Impact Services Corporation, Philadelphia, PA.
Neighborhood Action Bureau, Inc., Philadelphia, PA.
New Kensington Community Development Corporation, Philadelphia, PA.
Philadelphia Committee for the Homeless, Philadelphia, PA.
Philadelphia Neighborhood Enterprise, Philadelphia, PA.
Philadelphia Rehabilitation Plan, Inc. (PRP), Philadelphia, PA.
Philadelphians Concerned About Housing, Philadelphia, PA.
Popular Enterprise Community Development Corporation, Philadelphia, PA.
Project HOME, Philadelphia, PA.
United Hands Community Land Trust, Philadelphia, PA.
West Oak Lane Community Development Corporation, Philadelphia, PA.
Breachmenders, Inc., Pittsburgh, PA.
Lawrenceville Development Corporation, Pittsburgh, PA.
Montgomery County Housing Coalition, Souderton, PA.
Warminister Heights Homeowners Association, Warminister, PA.
CHAS Coalition, Washington, PA.
Community Action Southeast, Washington, PA.
Community Housing Task Force, Washington, PA.
Threshold Housing Development, Inc., Washington, PA.
Washington County Housing Authority Homeless Assistance Program, Washington, PA.
York Area Development Corporation, York, PA.
Las Flores Metacant, Inc., Coamo, Puerto Rico.
Church Community Housing Corporation, RI.
Housing Coalition, Providence, RI.
Omni Development Corporation, Providence, RI.
Beaufort-Jasper Economic Opportunity Commission, Inc., Beaufort, SC.
Beaufort-Jasper Low-Income Housing Coalition, Beaufort, SC.
Charleston Affordable Housing, Charleston, SC.
Appalachia Services Project, Johnson City, TN.
Neighborhood Housing Opportunities, Inc., Memphis, TN.
Community Development Corporation of Brownsville, Brownsville, TX.
Greater Eastwood Community Development Corporation, Houston, TX.
Azteca Economic Development & Preservation Corporation, Laredo, TX.
People, Incorporated of Southwest Virginia, Abingdon, VA.
Arlington Housing Corporation, Arlington, VA.
Robert Pierre Johnson Housing Development Corporation, Arlington, VA.
Albermarle Housing Improvement Program, Charlottesville, Va.
Charlottesville Housing Foundation, Charlottesville, VA.
Charlottesville Housing Improvement Program, Charlottesville, VA.
Virginia Mountain House, Inc., Christiansburg, VA.
Good Shepherd Housing Foundation, Manassas, VA.
Interfaith Housing Corporation, Midlothian, VA.
Westmoreland Housing Coalition, Inc., Montross, VA.
Fluvanna County Community Development Foundation, Palmyra, VA.
Church Hill Area Revitalization Team, Richmond, VA.
Highland Park Restoration and Preservation Program, Richmond, VA.
Oregon Hill Home Improvement Council, Richmond, VA.
Richmond Better Housing Coalition, Richmond, VA.
Single Room Occupancy Housing of Richmond, Inc., Richmond, VA.
Southside Community Development & Housing Corporation, Richmond, VA.
Task Force for Historic Preservation & the Minority Community, Richmond, VA.
Virginia Beach Community Development Corporation, Virginia Beach, VA.
Lake Champlain Housing Development Corporation, Burlington, VT.
Addison County Parent Child Center, Middlebury, VT.
Private Industry Council of Snohomish County, Everett, WA.
El Centro de la Raza, Seattle, WA.
Environmental Works, Seattle, WA.
Fremont Public Association & Washington Low Income Housing Congress, Seattle, WA.
Seattle Housing Resources Group, Seattle, WA.
South East Effective Development, Seattle, WA.
The Compass Center, Seattle, WA.
Spokane Low Income Housing Consortium, Spokane, WA.
Martin Luther King Ecummenical Center, Tacoma, WA.
Washington State Coalition for the Homeless, Tacoma, WA.
Blue Mountain Action Council, Walla Walla, WA.
Office of Rural and Farmworker Housing, Yakima, WA.
Common Wealth Development, Inc., Madison, WI.
Madison Area Community Land Trust, Madison WI.
Madison Community Co-op, Madison WI.
Project Home, Inc., Madison, WI.
Wisconsin Cooperative Development Council, Madison, WI.
Inner City Redevelopment Corporation, Milwaukee, WI.
Milwaukee Housing Assistance Corporation, Milwaukee, WI.
North Division Neighborhood Residents, Inc., Milwaukee, WI.
Westside Housing Co-op, Milwaukee, WI.
Wisconsin Farmers Foundation, Inc., Milwaukee, WI.
Partners for Community Development, Inc., Sheboygan, WI.
Cabell-Huntington Coalition for the Homeless, Huntington, WV.

TRIBUTE TO RICHARD ALAN GERBERRY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. TRAFICANT. Mr. Speaker, I rise on this occasion to pay tribute to the late Mr. Alan Gerberry of my 17th District in Ohio.

Mr. Gerberry was a graduate of Austintown Fitch High School and an alumni of Ohio State University. With such a distinguished background, Mr. Gerberry engaged in work in the banking industry in Houston. Six years ago, he left Texas to work in Delaware in the management of the First Bank of U.S.A.

Mr. Gerberry was always surrounded by love and companionship. He leaves his twin brother, Ohio representative to the 71st District Ron Gerberry and two other brothers, Michael and James.

It is with my deepest regrets that I rise today, Mr. Speaker, to pay tribute to the late Mr. Alan Gerberry who passed away on October 1, 1991.

NATIONAL WOMEN VETERANS RECOGNITION WEEK

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. BILIRAKIS. Mr. Speaker, this week the House of Representatives will pass a resolution to designate the week beginning November 10 as "National Women Veterans Recognition Week." For the last 7 years I have introduced this measure in order to honor the more than 1.2 million women veterans who have served in our Armed Forces.

In 1984, I authored the first piece of legislation introduced in the Congress which called for national recognition of women veterans. While I was pleased to be the originator of this idea, I was surprised and disappointed that such recognition had not been given before. I

am proud to say that every year since, the Congress and the President have approved "National Women Veterans Recognition Week." This acknowledgment has been long overdue.

Although official military participation began with the formation of the Army Nurse Corps in 1901, followed by the Navy Nurse Corps in 1903, women have served in and with the military services since our country was founded.

During World War I, the Army held fast to its prohibition against enlisted women, but the Navy Department took advantage of the clerical skills women offered by signing up 13,000 women in the Navy and Marine Corps. These women—who worked as telephone operators, clerical workers, typists and stenographers—were the first to be accorded full military rank and status. When WWI ended, however, they were demobilized, and except for the nurse corps, the American armed services were once again all-male institutions.

World War II marked a turning point in the history of women in the military. On May 14, 1942, the Women's Army Auxiliary Corps, or WAAC's, was created, followed 2 months later by the WAVES, which stands for "Women Accepted for Voluntary Emergency Service."

A total of 350,000 women served in the four services during World War II and their contribution to the war effort was invaluable. Perhaps the greatest compliment paid to the American women who served came from Albert Speer, Adolph Hitler's weapons production chief. Speer is reported to have said,

How wise you were to bring your women into your military and into your labor force. Had we done that initially, as you did, it could well have affected the whole course of the war. We would have found out, as you did, that women were equally effective, and for some skills, superior to males."

In 1947–48, Congress recognized the valuable service of women during World War II by granting them active duty status in the regular Army, Navy, Marine Corps, and Air Force. Women continued to play an active role in Korea and Vietnam and in 1975, Congress further recognized the important contributions of women by requiring the service academies to admit women. The first women were graduated in 1980.

Whether women served as nurses, clerical support, mechanics, technicians, pilots, cryptographers or one of the many other positions of service, they have contributed and continue to contribute mightily to our defense in times of both war and peace. And despite the fact that women are officially excluded from combat duty we all know that many women veterans served under very difficult and dangerous circumstances—some even gave their lives for their country.

In fact, in every war before the 20th century in which the United States was involved, small numbers of women disguised themselves as men in order to serve in combat roles. Among the most famous of these were Deborah Sampson, alias Robert Shurtleff in the Revolutionary War; Lucy Brewer, alias George Baker, in the War of 1812; and Loretta Vasquez, alias Harry T. Buford, in the Civil War.

Despite the continuous service of women throughout the history of our Nation, we have not always recognized their tremendous contributions, nor have we paid attention to their needs as veterans.

It is my hope that "National Women Veterans Recognition Week" will highlight the special needs of women veterans, particularly in the areas of health care, employment, and readjustment problems. Of greatest importance is to increase women veterans' awareness of the availability of VA benefits and services for which they are eligible. Although much has been accomplished in the past serveral years, women veterans are less likely than their male counterparts to use veterans benefits such as VA health care and the Home Loan Guarantee Program.

In August, the Veterans' Affairs Oversight and Investigations Subcommittee, of which I am the ranking minority member held a hearing on the needs of women veterans. During the course of this hearing, several witnesses testified that they felt that traditional Veterans' Day festivities tend to overshadow the observance of "National Women Veterans Recognition Week." These witnesses felt it would be more appropriate to honor women veterans at some other time during the year.

In light of the testimony I heard during the August hearing, I am considering changing the date for the 1992 resolution. Several of the witnesses suggested June 12. This is the date in 1948 when President Truman signed the law establishing a permanent place for women in the Armed Forces. I hope that women veterans from across the country will contact me to express their preference for the commemoration of "National Women Veterans Recognition Week."

However, no matter when "National Women Veterans Recognition Week" is observed, it is a time for the country to become better acquainted with the service of women veterans and to express our gratitude to them for that service. It is also a time for women veterans themselves to remember their years in uniform and take pride in the many contributions women have made to the security and well-being of our great country.

I wish to thank Chairman SAWYER and the ranking member, TOM RIDGE, for their assistance in bringing this legislation to the floor. In addition, I wish to thank the women's groups, national veterans organizations and my House colleagues who worked diligently toward the enactment of this measure.

Thank you Mr. Speaker.

BANK REFORM, DEFORMED

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. NEAL of North Carolina. Mr. Speaker, the New York Times editorialized today in favor of our Committee on Banking and Finance bill—they call it brilliant—and against the Gonzalez/Dingell plan—they call it deformed. The editorial is correct and I commend it to my colleagues:

BANK REFORM, DEFORMED

What started out as a wise, urgently needed rescue for the nation's ailing banks—and potentially for taxpayers as well—has turned grotesque. An ugly turf war between two House committees has yielded up legislation that would deform, not reform, the business.

There's still a way out, but unless some deft maneuvering takes place on the House floor in the next few days, the public will be left with a grim, graphic case study in what's wrong with Congress.

Early this year, the Bush Administration proposed a prudent plan to make banks safe by allowing them to diversify their investments. The idea was to let them set up branches anywhere and sell insurance, securities and mutual funds. That way bank profits would be insulated from losses on loans in any one state or sector.

The House Banking Committee, headed by Henry Gonzalez, made a good plan better by adding decisive safeguards. They would require banks to hold large reserves and force regulators to close failing banks before reserves dropped below specified targets. If these safeguards had existed in the 1980's, the savings and loan blowout, and taxpayer bailout, would never have occurred.

Then an ugly rivalry erupted. John Dingell's House Energy and Commerce Committee passed its own, directly contrary version. Purporting to protect insured deposits, the Dingell bill would set up "firewalls" to separate normal bank activities from new powers that bank reform would confer. But that extra protection isn't necessary and the firewalls would, as Mr. Dingell surely understood, keep banks from competing against insurance and securities companies.

How could two such opposite bills be reconciled? Unaccountably, the two chairmen met behind closed doors—and adopted Mr. Dingell's flawed proposal. In one stroke Mr. Gonzalez trashed much of his committee's brilliant work. The result is so offensive to genuine reform that President Bush is right to threaten a veto.

Mr. Dingell, the crusty Michigan Democrat, is the most visible but not the only impediment to the bank reform. House members are gun-shy of any proposal that hands banks new powers, especially since it was new Congressionally mandated powers that buried savings and loan institutions in such a monumental heap of bad debt.

Heedless fear of a repetition leaves many members leery of the Banking Committee bill. But even now, the Dingell bill can be turned into effective reform with merely one addition and one subtraction. Here's how.

The addition: Cover a new layer of protection for insured deposits at those few banks that choose to sell insurance and securities. These large banks would be required to invest insured deposits only in truly safe assets, like government securities. That way, should these banks fail, funds would automatically be available to pay back depositors without tapping Federal deposit insurance.

The subtraction: With that protection, Mr. Dingell's firewalls would serve no purpose and could be deleted, leaving banks that want to enter insurance and securities businesses free to do so without impossible impediment. And meanwhile, the great majority of banks with no such desire would be covered by the Banking Committee's sensible legislation.

For House members who remember reforms they approved in the 1980's, radical reform is scary. But bank reform, to be effective, must be radical because the banking system needs support. Either that support will come sooner, from an intelligent reform law that makes banks less risky—or later, from taxpayers.

Congress can yet give this twisted tale a last, wise turn.

INTRODUCTION OF THE FAIRNESS IN FEDERAL PURCHASES ACT OF 1991

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. MURTHA. Mr. Speaker, I come before the House today to express my concern about an issue which has a critical impact on our economy.

It is a matter that affects the nature of our commitments as a government—commitments to international agreements, to the implementation of Federal agency regulations to meet those commitments, and our specific commitments to our constituents—the American people—to see that fairness prevails in the execution of our official duties.

Since I came to Congress in 1974, I have consistently supported efforts to expand our economic base through improvement in our trade laws which are designed to mutually benefit our trading partners and ourselves by opening markets, eliminating trade barriers and providing safeguards and enforcement for potential abuses.

So, it was with this sense of purpose and anticipation that my colleagues and myself supported the passage of the Trade Agreements Act of 1979, an important piece of implementing legislation to the Tokyo Round of multilateral trade negotiations designed to achieve those objectives I just mentioned.

We are now witnessing the winding down of the current round of trade negotiations, the so-called Uruguay round, in which great effort has been expended by all parties to achieve further improvements in the ground rules for international trade.

A variety of issues regarding the evolution of these trade negotiations concern my colleagues and myself. Today, I would like to focus on one of my main concerns—the expectations we had for an opening of opportunities through the Government Procurement Code and the current efforts to expand this coverage.

When Congress passed the Trade Agreements Act of 1979, we had high expectations for commercial benefits from the Government Procurement Code with a potential opening of some $20 to $25 billion in trade opportunities for U.S. export sales to foreign government procurement entities.

In fact, since implementation of the code on January 1, 1981, the United States has spent on an annual basis some $18 billion in foreign source procurement while U.S. suppliers have taken in only $4 billion from sales to overseas governments for a total annual imbalance of some $14 billion. This means that U.S. agencies have purchased about $4.50 of foreign goods and services for every $1 U.S. companies have sold to foreign government agencies. This translates into an over 4-to-1 deficit with respect to trade opportunities for U.S. export sales to foreign governments.

Further, it is important to note that U.S. Federal agencies have confirmed the code has had less overall commercial value than originally anticipated and that of the markets opened, the benefits were disproportionately in favor of foreign suppliers.

With respect to the code, we have additional concerns about inadequate monitoring of foreign government compliance, inadequate efforts to enforce U.S. rights, the lack of U.S. Government assistance to firms wishing to take advantage of opened markets and the continued lack of progress to open foreign markets.

These issues need to be addressed thoroughly and now, when our trade negotiators are discussing the Government Procurement Code in Geneva during the current MTN round. We need to carefully reevaluate our current coverage and its impact to determine what indeed is in our best national interest. We should do this before we move aggressively to expand coverage to additional areas such as surface transportation and defense. In view of our economic condition and our experience to date with the code, we cannot afford to create unrealistic expectations about any potential benefits from these negotiations. We need concrete action which will serve our national interests.

Mr. Speaker, I have long maintained as many of my colleagues have, that our national security is closely linked with, and perhaps indistinguishable from, economic growth. Today, we find that economic growth threatened. Over the past 18 months, we have experienced a condition of relative instability in our economy with negative growth resulting in lost jobs and lost sales for both small and large businesses. Clearly, there is a need to act decisively.

After 11 years of limited opportunities for American companies overseas under the Government Procurement Code, the time has come to address the matter of imbalance with respect to our trading partners' government procurement practices. We need to refocus U.S. Federal procurement during this period of economic adjustment to enhance opportunities for small businesses and to preserve the jobs of workers which traditionally have the least resources to withstand economic recessions.

The use of U.S. Federal procurement dollars to assist small businesses and American workers is a sound practice and policy for our Government.

Therefore, today I am introducing legislation to establish a policy that will serve to reduce the imbalance in Government purchases by increasing procurement from domestic companies. Further, by enacting this legislation, Congress intends to promote fairness in Federal procurement by creating greater access to Federal procurement funds by small businesses and areas of high unemployment during economic downturns.

Mr. Speaker, as I mentioned in opening these remarks, we have a responsibility in Government to fulfill our commitments. I firmly believe that we have lived up to both the spirit and the letter of our commitments with respect to our trading partners and the Government Procurement Code over the past 11 years. Unfortunately, the record shows a reluctance on the other side to meet even a minimum of our expectations. Therefore, in view of this record and our current economic condition, we need to take such definitive action, and by doing, meet our commitment to this Nation and our constituents to seek fairness.

The following is a summary of the "Fairness in Federal Purchases Act of 1991:"

SECTION 1.—TITLE: THE "FAIRNESS IN FEDERAL PURCHASES ACT OF 1991"

SEC. 2.—FINDINGS AND PURPOSE

Since the implementation of the Government Procurement Code in January, 1981, U.S. agencies have purchased $4.50 of foreign goods and services for every $1.00 U.S. companies have sold to foreign government agencies. This translates into an over 4 to 1 deficit with respect to trade opportunities for U.S. export sales to foreign governments. (The U.S. spends approximately $18 billion in foreign source procurement each year while U.S. suppliers take in only approximately $4 billion from sales to overseas governments for an annual imbalance of an estimated $14 billion.

With the U.S. economy in a condition of relative instability over the past 18 months, there is considerable concern about continuing negative growth resulting in more lost jobs and sales for both small and large businesses.

After 11 years of limited opportunities for U.S. companies overseas under the Code, the time has come to address the matter of imbalance and to refocus U.S. Federal procurement toward greater use of domestic sources during economic downturns—a period in which the country now finds itself.

SEC. 3.—REQUIREMENT THAT FEDERAL AGENCIES INCREASE DOMESTIC PROCUREMENT AND PROCUREMENT FROM SMALL-BUSINESS CONCERNS DURING ECONOMIC RECESSIONS

GENERAL REQUIREMENTS

1. All Federal government procurement entities covered under the Government Procurement Code (GPC) will be required to determine the difference between the amount they have spent on foreign goods and services and the amount comparable foreign government agencies have spent on similar goods and services from domestic sources during the preceding fiscal year. If there were an unfavorable balance then U.S. agencies shall decrease foreign purchases and increase spending on procurement from domestic sources to eliminate the imbalance.

2. Increased domestic procurement would be engaged for a period of 18 months immediately after the Bureau of Labor Statistics (BLS) has reported at least 5 percent unemployment over a three-month period or the Department of Commerce (DOC) has reported at least one quarter of negative GNP.

3. After 18 months, the BLS and the DOC will report to the U.S. Trade Representative on GNP and unemployment data for the previous quarter. If the criteria were met, then an additional 12 months of increased domestic procurement will be engaged. Otherwise, the program would be terminated on a favorable report from BLS and DOC regarding economic and employment data.

4. To the extent practicable, Federal entities will maximize the use of small businesses by determining how much was spent on purchases from small businesses in the preceding fiscal year. If the amount was less than 35 percent of the total procurement dollars spent, then Federal agencies would be required to increase spending to an amount that equals or exceeds 35 percent of the total.

5. Small businesses would be eligible for an increase in the current preference from 12 percent to 15 percent. In addition, "labor

surplus" areas would be entitled to the upgraded preference of 15 percent during the period of this engagement.

I urge my colleagues to cosponsor and support this important legislation which will help create American jobs in areas of high unemployment, help small businesses compete and begin to address the unfavorable imbalance with respect to our trading partners' government procurement.

TRIBUTE TO THE 1991 INDUCTEES INTO THE AUSTINTOWN HALL OF FAME

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to the most recent inductees in Austintown's Hall of Fame which is in my 17th District of Ohio. These people have proven their expertise in the fields of business, professional and community service.

The first of these honorees was awarded based on her outstanding service to the business community. She is Mrs. Carol Fye, the owner of Advanced Marketing Systems. In her free time, Mrs. Fye acts on the board of the Mahoning Valley Camp Fire Council and on various committees of the board of education.

In the professional field, Mr. Robert Kloss has distinguished himself as vice-president of personnel for Home Savings and Loan for 30 years. Now a retiree, Mr. Kloss works as treasurer of the Kiwanis Club, Touchdown Club, Austintown Chapter of the AARP and growth foundation, among other activities.

The final inductee was chosen for his outstanding contributions in the field of community service. He is Mr. Griffith Thomas and is a board member of the local historical society, president of Kiwanis, secretary of the growth foundation and member of the July 4th Committee and Mahoning Planning Commission.

Mr. Speaker, it is with pride and gratitude that I rise today to pay tribute to Mrs. Faye, Mr. Kloss and Mr. Thomas as they are inducted to the Austintown Hall of Fame.

TERM LIMITS WILL NOT SOLVE PROBLEMS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. KOSTMAYER. Mr. Speaker, one of the greatest storms brewing in the country today is the debate about term limits. For reasons I do not quite understand, term limit supporters believe that Government will be more responsive to its citizens if those citizens forego their right to elect the representative of their choice.

But Mr. Speaker, putting new limits on people's voting rights is not going to solve our problems.

The answer is not to push people out of Government, the answer is to get more people involved in it. The answer is not in pinning blame, but in finding solutions.

Ours is a participatory democracy and it only works when Americans care enough about it to participate in it. There are all sorts of easy gimmicks out there to improve the Government—term limits is just the latest—but the fact is democracy is not easy and it's never going to be. It takes work and vigilance on the part of all of us.

For some forceful thoughts on this subject, I commend the speech of our former colleague from Connecticut, Lowell Weicker, and ask that it be printed in the RECORD following my remarks:

STATEMENT OF LOWELL P. WEICKER, JR., CONVOCATION ADDRESS, GALLAUDET UNIVERSITY, OCTOBER 25, 1991

On the occasion of the fifth anniversary of Gallaudet College becoming Gallaudet University, I am pleased to stand here among men and women I respect most in this land, for reasons they may not realize.

First, there is a wonderful link between this university and Connecticut.

I read it last week, on a plaque in downtown Hartford, marking the site where, on April 15, 1817, the first school for deaf children was established in this country. It began with a class of seven.

These words were added: "Here, is witnessed, for the first time in this Western world, the affecting sight of a little group of fellow sufferers assembling for instruction, whom neither sex nor age nor distance could prevent from hastening to embrace the first opportunity of aspiring to the privileges that we enjoy as rational, social and immortal beings."

They were written by Thomas Hopkins Gallaudet. Such beginnings are a treasured part of Connecticut's history. But as important is today's activism, determination and spirit of Gallaudet students as evidenced by the occasion and the man that brings us together in this place.

You showed yourselves a positive, powerful force for empowerment by insisting on the installation of a deaf president for the first time in Gallaudet's history. And today, you have Dr. I. King Jordan—a man of courage, vision and determination—qualities that are sorely lacking among too many of our leaders.

Several years ago when you thought "the first opportunity for aspiring" had worn out its 160 year old stay you neither yelled at nor walked away from a world that handcrafted disabilities far more limiting than those God had wrought.

I would like to think the country caught your message—that political activism does work. I would like to believe that examples of confronting society's ills whether in Selma, Alabama or on Massachusetts Avenue before the gates of the South African Embassy would prove the point that one woman, one man can make a difference.

You don't have to look to Atlanta or Minneapolis these days for the national pastime. Look rather to an American people who have made government a national pastime of never ending Bronx cheers rather than a million acts of voting.

We've abandoned the playing field of free elections and constitutional government and become a nation of political couch potatoes and Monday morning quarterbacks.

For twenty-eight years I've heard the grousing of what Government doesn't do right. I've heard the unrelenting criticisms of those who serve in public office. Today the murmur has become an unintelligible cacophony that assaults all common sense.

There is nothing wrong with speaking out, but when knocking and slamming becomes the entire substitute for the process of thought and activism, then it is time someone spoke back.

Ours is a democracy. If people are upset with the daily results, it is because they have become absentee owners.

In the 1988 Presidential election as many Americans of voting age stayed home as went to the polls. It was the lowest voter turnout since the 1924 election between Calvin Coolidge and J.W. Davis. And that was in a time when voters had to hand crank their model T's or ride to the polls in a horse and buggy. Nowadays it's hard just to get someone to drop their bag of doritos long enough to cross the street to vote.

The 1988 turnout was pathetic but no surprise to those who have been watching voter participation decline steadily for two decades.

We've heard all the justifications. "None of the above." "The lesser of two evils." "Why should I?"

And the danger of low voter turnout is that men and women elected to office lack any mandate from the people. In the non-Presidential election year of 1990, only one of three of voting age Americans cast ballots in their respective district's congressional races. Lacking any marching orders, elected officials become uncertain where to go. Instincts to lead are overpowered by a fear of confronting the difficult, the untried, the unpopular. The purpose of power becomes retaining power.

Without the direction that the common sense majority of the Nation can provide at election time, officeholders cater to the winds of the day. With the dial tuned to talk radio and with a 1-800 line to their pollster, today's politician is whoever you want at the moment.

In 1988 when elected officials panicked over people's concern about drugs, that topic immediately became the subject of chest-pounding both in Congress and on the campaign trail. The Congress, as it had in the 1986 election, passed a massive anti-drug bill, and immediately flooded the home districts with press releases. Yet when it came time to fund the bill and the evil word taxes came up, the only sign of anyone in Congress was the Chamber's swinging exit doors.

Hard decisions don't get many dates in political circles these days. Knowing they weren't going to be held accountable, the Members of Congress chose to fight the drug war on paper. They went on record against drugs and at the same time they went on record against taxes. An unbeatable combination. Now that insanity can't happen without the approval, albeit tacit, of the American people. It isn't the fault of Mr. Reagan, Mr. Bush or the Congress. It's ours. As Ben Franklin said, "in this Nation, the people rule." It's not Washington who's to blame. It's not Hartford. It's us. If we get hoodwinked, it's with our own knowledge and consent. No one in an age of media overkill can legitimately plead ignorance when the bills come due.

In the last 5 years we've had two wars in the Persian Gulf. I'm speaking of the tanker escort operation during the Iran-Iraq war, and of course, operation Desert Storm. These were major operations involving great expense to this country's Treasury, but yet not one nickel has been asked of the American public. We sent over sons and daughters—some of whom lost their lives, but the American public with its 200 million individual purses was spared. Elected officials afraid of

upsetting a spectator public, withheld the bill through yet another election. No one complained. As long as the bill isn't in the mail, why say anything? Yet why then should any American wonder at the deficit?

In 1988, almost 95 percent of incumbents in Congress were reelected, 1990—the year when the so-called anti-politician movement was running through the country—the percent was almost as high. Few politicians offered an agenda. Rallies were held not to hear about issues but to wave the flag. And most people on election day stayed home. In other words, dropped the flag.

In Connecticut's congressional election of 1986, seven hundred thousand eligible voters stayed away from the polls. Four years later I was elected governor and inherited a trash of constituent neglect—a $3 billion dollar deficit—the highest proportionate deficit in the Nation. The people of Connecticut had demanded high-quality services at below-cost prices. When presented with the bill in the form of one billion dollars in service cuts and a first ever State income tax, 40,000 mobbed the capital to protect and demand repeal. These Rip Van Winkles had gotten the wake-up call of their life.

Yet what makes them mad was that people say they expect from Government—honesty. Even though most politicians are malleable, the facts don't bend.

How many remember the energy crisis in the 1970's and the Arab oil embargo that nearly had this Nation kneeling in the sand. We could have gotten the sandals off our back and busted that embargo in 5 days time if we had immediately decontrolled energy prices and instituted mandatory conservation measures. But because no one wanted to change lifestyles, we spent half a decade in economic turmoil. And now in 1991 our energy vulnerability has never been greater. If oil prices soar again, who then is to blame? Washington? Saudi Arabia? Or us?

The 1980's brought selfishness to new heights. They preached that you can get something for nothing. It was a platform of more services, less taxes. It was great politics, but it didn't make budget sense. Not unless the country's population and problems grew smaller, which they didn't. The 80's made people feel good, especially about greed.

Today we're picking up the refuse of that philosophy in Connecticut. In Washington. In State Capitols across the land. Contrition? Forget it.

Invective has been substituted for solution. Blame replaces payment. Americans have forgotten the system that is the envy of the world. A system of dialogue and voting that only improves with use.

Years ago Congress had the opportunity and the mandate to bring equality of educational opportunity to all, but it failed to act. Instead the courts had to take over. Congress reacted by trying to emasculate the court's powers of remedy. Rather than devising programs to manifest our constitutional ideals, elected officials found straightjacketing the courts less antagonizing. More and more, the courts are being forced to take the responsibility that elected officials and their constituencies abdicate.

The ultimate fault, however, lies not with elected officials and courts but with all 250 million of us. The legislative and executive branches are a reflection of all of us. The start or finish of every priority is a call made by the American people.

Thirty years ago we in the North used to look down our noses on the South when it came to civil rights, but the fact of the matter was, we too, ignored equality. It wasn't until Martin Luther King pricked the conscience of a nation and people North and South decided they wanted civil rights, that legislation rolled through the Congress and became the law of the land. No filibuster could stop it even though that tactic had been the excuse for years of inaction.

The educator and former University of Chicago president, Robert Maynard Hutchins warned:

"The death of democracy is not likely to be an assassination by ambush. It will be a slow extinction from apathy, indifference, and undernourishment."

People today don't want involvement. They want the comfort of Government by autopilot. Term limitations, constitutional amendments to balance the budget. Gramm-Rudman. Referendums. Lazy man's alternatives—every one of them.

Whatever happened to voting? To serving? Are freedom and excellence no longer worth two minutes at the polls? If, in a recent poll, 83 percent of the people adjudged politicians as corrupt, then in our country that is a damning self judgment. In fact, that's not the case, so knock off the demeaning generalizations.

The democratic way of life is not easy, Justice Earl Warren reminded us. It conveys great privileges, but constant vigilance is needed to preserve them.

"This vigilance," he said, "must be maintained by those responsible for the Government: And in our country those responsible are 'WE' the people—no one else."

People need to be reminded of the power they hold if they choose to use it. Look at the Americans With Disabilities Act.

That act is a monument to what political activism at its best can accomplish. Our customs and laws had created barriers where God did not put them. And it took people—and unceasing grassroots effort—to return to disabled Americans the rights to which all in this Nation are entitled. Legislators heard the message. The President heard the message. And the ADA is now the law of the land.

Does that mean you and I can bide our time as we wait for the ADA to be implemented? No! Remember, a law without funding or enforcement is a nullity.

There is tremendous power in each American because ours is a government of laws. Our political system is the best in the world at translating the needs of the street into the laws of the Nation. It represents an opportunity for each of us, but it needs elbow grease, not dirty words.

Here at Gallaudet University you have taken advantage of the opportunity our system offers. You have chosen activism and reaped its rewards.

You have fulfilled those noble words of Eleanor Roosevelt:

"You gain strength, courage and confidence by every experience in which you really stop to look fear in the face . . . You must do the thing you think you cannot do."

For this, you of Gallaudet University make this Governor very proud . . . and very grateful.

Your example must be acted out again and again by a nation that long ago stopped trying. Here's to the tomorrows of one nation. Joined in vision. United in Action.

Thank you.

THE UNJUST DOUBLE STANDARD IN THE MIDEAST

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. GILMAN. Mr. Speaker, the Madrid Peace Conference has brought its regional participants to the table. While some observers have stated that the peace conference is the best opportunity Palestinians will ever have, in many respects, the status quo remains. On the eve of the conference, on Monday, October 28, 1991 Palestinian terrorists attacked an Israeli bus, murdering two adults and injuring five children. The Washington Post buried the story the next day. On Tuesday, October 22, 1991, as peace conference participants were arriving in Madrid, Palestinian terrorists struck again, killing several Israeli soldiers.

Many of these same terrorists and their organizations are given safe haven and financial support by one or more Arab States present at the conference. Yet criticism and distortions of the truth continue to be hurled at Israel from all sides.

Just a few days ago, A.M. Rosenthal of the New York Times discussed this double standard in more detail. Accordingly, Mr. Speaker, I request that his article be reprinted at this point in the CONGRESSIONAL RECORD for the benefit of our colleagues. His words ring true:

[From the New York Times, Oct. 22, 1991]

THE DOUBLE STANDARD

(By A.M. Rosenthal)

The double standard in the Middle East has become built into American diplomacy and journalism. It is so taken for granted that hardly anybody notices.

It is time to notice, the most important of times. The Israeli-Arab talks supposed to start at the end of this month can be an important step in the Mideast. The credit goes to the persistence of President Bush and Secretary of State James Baker, the willingness of the Israeli Cabinet to take plain risks for peace, and the decision of some Palestinians not to let yet another opportunity pass them by.

At last Palestinians and Jordanians will, in a joint delegation, face the Israelis. At least in theory, a basis of the talks will be the only solution possible for some years—Palestinian self-government for five years, hedged by Israeli military presence but meanwhile given broader horizons by negotiations about what-next.

If these talks are to get a fair chance, American diplomats, politicians and journalists of conscience, who will assess the talks day by day, ought to examine the double standard now—in justice not simply to Israel but to all who ache for peace in the Middle East.

In some important part, the double standard comes out of the nature of Israeli society and is a great asset to the country. If a higher standard of ethics and conduct is demanded of Israelis, it is because even its antagonists know it judges itself on democratic and political standards unknown elsewhere in the Middle East. Without those self-imposed standards Israel would have no greater claim to support and affection than any other small nation.

But throughout its existence, and increasingly, the double standard has not been just

a debate about ethics. It became a whole arsenal of deadly weapons against Israel that the world chooses to ignore—vicious racial and religious insult, terrorism, boycott and embargo, refusal to abide by elementary diplomatic rules of conduct and, now, sabotage of the peace talks.

For almost a half-century Israel has been bombarded with filth—from the ceaseless and still-continuing anti-Israel and anti-Jewish campaign in almost every Muslim country worldwide. Filth from mouth, the press and the airwaves is meant to dehumanize a nation and make its extinction desirable. The world says nothing, does nothing.

In the United States—even in America—cartoons appear in the mainstream press that could have run in German Nazi papers. One showed an ugly Yitzhak Shamir beating a prostrate, tied Palestinian with a mace from which swung a menacing Star of David. The Star of David is a routine symbol of oppression now for some American cartoonists. Publishers do nothing; readers, nothing.

A Saudi Arabian is elected president of the U.S. General Assembly.

Before the Foreign Minister of Israel speaks, the Saudi prostitutes his position by absenting himself from the rostrum. If an Israeli had by some mad chance been elected president of any U.N. body, and withdrawn not to soil his eyes and ears with an Arab speaker, the critics of Israel, from the most vulgar to the toniest, would have howled. I didn't hear any howls about the absent Saudi.

Israel is asked to pay heavily, in land, for the normal trade and diplomatic relations that every other country gets as an automatic mark of nationhood. Pay to end the embargo, pay to get credits, pay to receive ambassadors. What payment did the U.S. get from Saddam Hussein for pushing credits to Iraq just before the invasion of Kuwait?

And now, Syria announces its boycott of half the peace conference, possibly the more important half—the regional discussions among Israel and her neighbors on arms control, water, economic development.

If Israel had done that—oh my, Washington and the journalistic critics would have positively danced with rage. I see not a step.

Instead it is Israel that gets the new barrage of warnings—shape up or starve, or as some fellow put it with such sensitive wit in The Washington Post, beggars can't be choosers.

So that anti-Israeli double standard already has made it a half-conference. The Arab states note American acquiescence. If Americans keep applying the double standard, what's left of the conference won't have much of a life expectancy.

NEW JERSEY PRIDE HONOR ROLL: ARTHUR VREELAND

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. GALLO. Mr. Speaker, on November 23, the people of Parsippany, NJ, will gather to honor a truly remarkable individual, who has given a lifetime of service to the protection of the public safety and property in our community.

Arthur Vreeland first joined the Parsippany Volunteer Fire Association in December of 1930 at the age of 22.

For more than 60 years, Arthur Vreeland has been an active member of the company and has spearheaded efforts to uphold the highest aspirations of firefighting in the protection of life and property.

He served for 35 years as secretary and has achieved the ultimate lifetime recognition as an honorary chief.

Arthur Vreeland's dedication to the Parsippany Fire Co. over 60 years gives meaning to the definition of volunteerism and sets a standard of service that will be difficult to duplicate.

Volunteers are the most important members of any community and none perform greater and more sustained service than the men and women who risk their lives to save others.

Volunteer fire and rescue squads save countless lives and protect personal property. They, in turn, are assisted by their auxiliary volunteers, who provide the support needed to keep these life-saving organizations moving forward.

Volunteers are the glue that hold our communities together, yet we often take for granted their valuable contributions of time and energy, which produce such positive results.

In fact, there are so many worthwhile projects in every community that we will never have too many volunteers who are willing to participate, even for a few hours a week.

It is no coincidence that communities with active citizen participation have a better quality of life than towns that have little or no sense of community spirit.

As we honor Arthur Vreeland for his 60 years' of service we also acknowledge all of our volunteers for their contributions to the community.

And, because of Arthur Vreeland's example, we are also reminded of the truly amazing things that can be accomplished when dedicated volunteers work together toward a shared goal.

Mr. Speaker, I ask my colleagues to join with me in saluting Arthur Vreeland for his lifetime of voluntary service to his community.

AMBASSADOR BAKHMETEFF'S ADDRESS TO CONGRESS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. BROOMFIELD. Mr. Speaker, I would like to commend a good friend, historian, Mason, and former Congressman, Fred Schwengel. He is the founder and current president of the U.S. Capitol Historical Society, which works to make the history of the Capitol Building and Congress more available to individuals at home and abroad.

Each spring the U.S. Capitol Historical Society hosts a major annual symposium to inform our citizenry of various historical events. In recognition of the growing ties between the peoples of the United States and the U.S.S.R, Congressman Schwengel has written a letter to President Mikhail Gorbachev proposing a symposium where the leading historians of both nations would address the most critical dimensions of their respective histories and national characters.

In discussing this event with Congressman Schwengel, I was reminded of the historical significance between recent developments in the Soviet Union and the Russian republican period before the Bolshevik Revolution in 1971. In June 1917, Boris Bakhmeteff, the Ambassador to the United States from the Republic of Russia, a member of the faculty of Columbia University and a Mason, addressed the House of Representatives and the Senate with words that clearly demonstrate the similarities between the two periods. Mr. Speaker, I ask that Ambassador Bakhmeteff's address before the House and the Senate be printed in the CONGRESSIONAL RECORD:

BORIS BAKHMETEFF, AMBASSADOR TO THE UNITED STATES FROM THE REPUBLIC OF RUSSIA ADDRESS BEFORE THE U.S. HOUSE OF REPRESENTATIVES, JUNE 23, 1917

Mr. Speaker and gentlemen of the House [applause]. I am deeply conscious how great an honor has been conferred on me and the members of my mission by this gracious reception. I understand how unusual it is for this House to accord to foreigners the privilege of the floor. I realize that if you were moved to make such an exception it was due to the great and most extraordinary historic events which have been and are now taking place in the world.

Great indeed is the honor and the privilege to speak here, in this House, exemplifying as it does the Constitution of the United States—that wonderful document which embodies so clearly and yet so tersely the principles of free government and democracy. [Applause.]

Gentlemen of the House, when addressing you on behalf of the Government and the people of new Russia, when conveying to you the greetings of the new-born Russian democracy, you will conceive how impressed I am by the historical significance of this moment; you will understand why my emotions do overwhelm me.

During the last few months Russia has really lived through events of world-wide importance. With a single impulse the nation has thrown down the old fetters of slavery. Free, she is entering now the dawn of new life, joining the ranks of democracy, striving for the happiness and the freedom of the world. [Applause.]

Does not one feel occasionally that the very greatness and significance of events are not fully appreciated, due to the facility and spontaneity with which the great change has been completed?

Does not one always realize and conceive what it really means to humanity that a nation of 180,000,000, a country boundless in expanse, has been suddenly set free from the worst of oppression, has been given the joy and happiness of a free, self-conscious existence? [Applause.]

With what emotions are we inspired who have come to you as messengers of these great events, as bearers of the new principles proclaimed by the Russian Revolution.

May I be permitted to reiterate the expression of the feelings that stir our hearts and, impressed as I am by the might and grandeur of the wonderful events, welcome and greet you on behalf of free Russia? [*Applause.*]

Here at the very cradle of representative government I feel it proper to recall the very moments of birth of constitutional life in Russia which presented itself some 12 years ago at the time of the first Russian Revolution.

It was then that the Duma came into being. From the very inception of this as-

sembly the old authority endeavored to curtail the powers that had been conferred on it. Its sole existence was an uninterrupted struggle; but in spite thereof, notwithstanding the limitations and narrowness of election laws, the Duma was bound to play a most important part in the national life of Russia.

It was the very fact of the being of a representative body which proved to be so fruitful and powerful.

It was that mysterious force of representation, force which draws everything into the whirlpool of legislative power, force the existence of which your American framers of the Constitution so deeply recognized and understood. It was that force which led the Duma, however limited, to express the feelings of Russia and frame her hopes during the world's great crisis, and made the Duma ultimately the center and the hope of national life.

It was the Duma who at the epoch when the old authority by vicious and inefficient management had disorganized the supplies of the country and brought the military operations to unprecedented reverse; it was the Duma who with energy and devotion called the people to organize national defense and appealed to the vital forces of the country to meet the German attack and save the nation from definite subjugation. Again, when it appeared that the short-sighted Government, who never took advantage of the patriotic enthusiasm and national sacrifice, was not only incapable of leading the war to a successful end but would inevitably bring Russia to military collapse and economic and social ruin, it was the Duma again who at that terrible hour proclaimed the nation in danger [*applause*]; it was at the feet of the Duma that the soldiers of the revolution deposed their banners and, giving allegiance, brought the revolution to a successful issue. It was then that from the ruins of the old regime emerged a new order embodied in the provisional government, a youthful offspring of the old Duma procreated by the forces of the revolution. [Applause.]

Instead of the old forms, there are now being firmly established and deeply embedded in the minds of the nation principles that power is reposed and springs from and only from the people. [Applause.] To effectuate these principles and to enact appropriate fundamental laws—that is going to be the main function of the constitutional assembly which is to be convoked as promptly as possible.

This assembly, elected on a democratic basis, is to represent the will and constructive power of the nation. It will inaugurate the forms of future political existence as well as establish the fundamental basis of economic structure of future Russia. Eventually all main questions of national being will be brought before and will be decided by the constitutional assembly—constitution, civil and criminal law, administration, nationalities, religion, reorganization of finance, land problem, conditionment of labor, annihilation of all restrictive legislation, encouragement of intense and fruitful development of the country. These are the tasks of the assembly, the aspirations and hope of the nation.

Gentleman of the House, do not you really feel that the assembly is expected to bring into life once more the grand principle which your illustrious President so aptly expressed in the sublime words. "Government by consent of the governed"? [Applause.]

It is the provisional government that is governing Russia at present. It is the task of the provisional government to conduct Russia safely to the constitutional assembly.

Guided by democratic precepts, the provisional government meanwhile is reorganizing the country on the basis of freedom, equality, and self-government, is rebuilding its economic and financial structure.

The outstanding feature of the present government is its recognition as fundamental and all important of the principles of legality. It is manifestly understood in Russia that the law, having its origin in the people's will, is the substance of the very existence of State. [Applause.]

Reposing confidence in such rule, the Russian people are rendering to the new authorities their support. The people are realizing more and more that to the very sake of further freedom law must be maintained and manifestation of anarchy suppressed.

In this respect local life has exemplified wonderful exertion of spontaneous public spirit which has contributed to the most effective process of self-organization of the nation. On many occasions, following the removal of the old authorities, a newly elected administration has naturally arisen, conscious of national interest and often developing in its spontaneity amazing examples of practical statesmanship.

It is these conditions which provide that the provisional government is gaining every day importance and power; is gaining capacity to check elements of disorder arising either from attempts of reaction or extremism. At the present time the provisional government has started to make most decisive measures in that respect, employing force when necessary, although always striving for a peaceful solution.

The last resolutions which have been framed by the Council of Workingmen, the Congress of Peasants, and other democratic organizations render the best proof of the general understanding of the necessity of creating strong power. The coalitionary character of the new cabinet, which includes eminent socialist leaders and represents all the vital elements of the nation, therefore enjoying its full support, is most effectively securing the unity and power of the central government, the lack of which was so keenly felt during the first two months after the resolution.

Realizing the grandeur and complexity of the present events and conscious of the danger which is threatening the very achievements of the revolution, the Russian people are gathering around the new government, united on a "national program." [Applause.]

It is this program of "national salvation" which has united the middle classes as well as the populists, the labor elements, and socialists. Deep political wisdom has been exhibited by subordinating various class interests and differences to national welfare. In this way this Government is supported by an immense majority of the nation, and, outside of reactionaries only, is being opposed by comparatively small groups of extremists and internationalists.

As to foreign policy, Russia's national program has been clearly set forth in the statement of the provisional government of March 27 and more explicitly in the declaration of the new government of May 18.

With all emphasis may I state that Russia rejects any idea of a separate peace? [Applause.] I am aware that rumors were circulated in this country that a separate peace seemed probable. I am happy to affirm that such rumors were wholly without foundation in fact. [Applause.]

What Russia is aiming for is the establishment of a firm and lasting peace between democratic nations. [Applause.] The triumph of German autocracy would render such peace impossible. [Applause.] It would be the source of the greatest misery, and, besides that, be a threatening menace to Russia's freedom.

The provisional government is laying all endeavor to reorganize and fortify the army for action in common with its allies. [Applause.]

Gentlemen of the House, I will close my address by saying Russia will not fail to be a worthy partner in the "league of honor." [Applause.]

BORIS BAKHMETEFF, AMBASSADOR TO THE UNITED STATES FROM THE REPUBLIC OF RUSSIA ADDRESS BEFORE THE U.S. SENATE, JUNE 26, 1917

Mr. President and gentlemen of the Senate, at the outset permit me to express to you sincere thanks and keen appreciation for the warm reception you have so graciously given to the members of the mission and to myself. Great is the honor you have bestowed by permitting me to address your distinguished body, abrogating thus a custom which has been upheld for more than a century, but still more gratifying is the expression of cordial sympathy and friendly feeling which have been so manifestly exhibited by your reception.

From the moment of our arrival in this country we have been deeply affected by the extraordinary greeting accorded us and by the constant expression of hearty welcome and sincere sympathy with which we have been hailed on all sides.

That bonds of friendship and sympathy united the people of the two nations we knew before we departed from Russia. They were amply manifested during the early days of the revolution. The act of prompt recognition of our new Government has been of incalculable value. For the brotherly encouragement which you gave us, and for the noble manner in which you so generously stretched forth a helping hand, we are here, in behalf of the new Russia, to express to you our deepest and most heartfelt gratitude. [Applause.]

We have come here as well to make clear the spirit and meaning of the great events taking place in our country. A thorough understanding is indispensable to enable our mission to accomplish the important task of establishing a close and effective cooperation between the two countries for common action and common cause. With the greatest of hope do I look forward to the results of such cooperation so vital to our mutual desire to firm a league of honor among free nations on the smoking ruins of automatic militarism.

At this moment all eyes are turned on Russia. Many hopes and many doubts are raised by the tide of events in the greatest of revolutions at an epoch in the world's greatest war. Justifiable is the attention, lawful the hopes, and naturally conceivable the anxiety. The fate of nations, the fate of the world is at stake, all dependent on the fate of Russia. Freedom and peace will be the blessings of the future if Russia happily emerges from the struggle a powerful democracy, sparkling with the gallantry of her army returning from fields won in common strife with her allies. [Great applause.]

An unprecedented epoch of spiritual depression, a new period of strenuous and anxious military depression would follow, should Russia fail to accomplish her task of political regeneration or should she collapse for economical reasons or the insufficiency of

her arms. In all frankness and sincerity do I expose my cause, confident in your good will and paying tribute to the manifest feelings of sympathy, may I say affection?

I am not going to conceal the gravity of the situation that confronts the Russian Provisional Government. The revolution called for the reconstruction of the very foundations of our national life. It is not easy to comprehend what it means to reorganize all of Russia on democratic lines. Such work involves the whole of our social, economic, and political relations. The entire State structure is affected by the changes, involving village, district, county; in fact, every part from the smallest to the central State. The creation anew of a country of boundless expanse on distinctly new principles will, of course, take time, and impatience should not be shown in the consummation of so grand an event as Russia's entrance into the ranks of free nations.

We should not forget that in this immense transformation various interests will seek to assert themselves, and until the work of settlement is completed a struggle among opposing currents is inevitable and exaggerations can be avoided. Attempts on the part of disorganizing elements to take advantage of this moment of transition must be expected and met with calmness and confidence. [Applause.]

In exposing to you a true picture of the situation I feel that it is my duty to present to you two considerations which make me feel that Russia has passed the stage of the world when the future appears vague and uncertain.

In the first place, it is the firm conviction of the necessity of equality, which is widely developing and firmly establishing itself throughout the country.

In the eyes of the Russian people this principle of equality is based on the fertile democratic doctrine that governments derive their just power from the consent of the governed [prolonged applause], and hence that a strong government must be created by the will of the people. [Renewed applause.]

Three days ago in the House of Representatives I stated that a strong majority of the Russian people had united around the coalition cabinet on a national program. I mentioned the confidence and powerful support which the Government is at present enjoying, and which from day to day gives it more strength and determination, not only to suppress acts of lawlessness on the part of disorganizing forces but also to carry out the constructive work of national reorganization.

Since then my latest advices give joyful confirmation of the establishment of a firm power, strong in its democratic precepts and activity, strong in the trust reposed in it by the people in its ability to enforce law and order. [Prolonged applause.]

In the second place, and no less important, is the growing conviction that the issues of the revolution and the future of Russia's freedom are closely connected with the fighting might of the country. It is such power, it is the force of arms, which alone can defend and make certain the achievements of the revolution against autocratic aggression. [Applause.]

There has been a period, closely following the revolution, of almost total suspension of all military activity, a period of what appeared to be disintegration of the army, a period which gave rise to serious doubts and to gloomy forebodings. At the same time there ensued unlimited freedom of speech and of the press, which afforded opportunities for expression of the most extreme and antinational views, from all of which resulted widespread rumors throughout the world that Russia would abandon the war and conclude a separate peace with the central powers.

With all emphasis and with the deepest conviction, may I reiterate the statement that such rumors were wholly without foundation in fact. [Great applause.] Russia rejects with indignation any idea of separate peace. [Prolonged applause.] What my country is striving for is the establishment of a firm and lasting peace between democratic nations. Russia is firmly convinced that a separate peace would mean the triumph of German autocracy, would render lasting people impossible, create the greatest danger for democracy and liberty, and ever be a threatening menance of the new-born freedom of Russia. [Applause.]

These rumors were due to misapprehension of the significance and eventful processes of reorganization which the Army was to undergo as a result of the emancipation of the country. Like the Nation, the Army, an offspring of the people, had to be built on democratic lines. Such work takes time, and friction and partial disorganization must be overcome.

To adapt new principles to a body so huge, so very manifold, and so self-dependent as is a modern army is no simple task. Patience is required to mold it in accordance with forms of democracy and personal liberty, preserving at the same time discipline so essential for success on the field of battle.

One must also realize that the time has passed when the fares of nations can be decided by an irresponsible government or by a few individuals, and that the people must shed their blood for issues to them unknown. We live in a democratic epoch where people who sacrifice their lives should fully realize the reasons therefore and the principles for which they are fighting. [Applause.]

Just as the Russian people had to undergo a process of reorganization and political revolution so also did the Russian Army. It was necessary for it to live our illusions and deceptions, and to rally about a program of historical necessity and national truth.

The national program of the Government calls for effective organization and consideration of the army's fighting power for offensive as well as defensive purposes. [Applause.] This has been the outcome of the crystallization of the will of the people. That is the program as to warfare which has rallied around the Government, Russia's democracy, giving its leaders vigor and strength.

Conscious of the enormous task, the Provisional Government is taking measures promptly to restore throughout the country conditions of life so deeply disorganized by the inefficiency of the previous rulers and to provide for whatever is necessary for military success.

In this respect exceptional and grave conditions provide for exceptional means. In close touch with the panpeasant congress the Government has taken control of stores of food supplies, and is providing for effective transportation and just distribution. Following the example of other countries at war, the Government has undertaken the regulation of the production of main products vital for the country and the army. The Government at the same time is making all endeavors to settle labor difficulties taking measures for the welfare of workmen consistent with active production necessitated by the national welfare.

As to the army, the process of crystallization of the national will is expressing itself in a growing sentiment of general and common appreciation of events and a thorough understanding of the situation.

Peaceful in its intentions, striving for a lasting peace based on democratic principles and established by democratic will, the Russian people and its army are rallying their forces around the banners of freedom, strengthening their ranks in cheerful self-consciousness; to die, but not to be slaves. [Great applause.]

Russia wants the world to be safe for democracy.

To make it safe means to have democracy rule the world. [Prolonged applause.]

FAMILY TAX RELIEF ACT OF 1991

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. RUSSO. Mr. Speaker, there is already ample evidence to show that in this decade our tax system has favored the rich over the middle class and that our national wealth has flowed unevenly to the most wealthy at the expense of low- and middle-income working Americans. Families have seen their incomes stagnate or decline, even though a second wage earner, usually a wife, has entered the work force.

These pressures on American families' time and finances have hurt one group more than any other: our Nation's children. A 1990 Commission on Children said "never before has one generation of American children been less healthy, less cared for, or less prepared for life than their parents were at the same age." Today, many of our children are among the poorest Americans. Two million more children live in poverty today than did a decade ago, with 800,000 new children entering the ranks of the impoverished every year. Our domestic policy has neglected them, and our tax system in particular has served to discourage families with children rather than help them when they most need it.

Our children are an investment in our future, they are capital for a nation which has always sought greatness and succeeded. Families today need relief from not only the ongoing recession, but also from a decade of neglect by this and the previous administration. While European nations offer generous cash and tax benefits for parents of young children, the United States has allowed its most important direct tax benefit for working families with children—the personal exemption—to decline dramatically in real dollars over the past 40 years.

Today I will introduce a bill to recognize our children's value to our Nation and to reverse a national policy of benign neglect toward them. The bill would give families a tax credit of $350 for each child under age 18. For the average American family, this represents a $700 tax cut. It's simple, requires almost no extra paperwork, and will put cash in the hands of families with children. And we intend to pay for it.

Rather than raising taxes, the bill targets specific defense and domestic program cuts which would pay for the family tax credit. Overall, defense spending would be cut by $80 billion and domestic programs by $38 billion.

The revolutionary changes in the Soviet Union and Eastern Europe necessitate a reevaluation of our spending priorities. This bill maintains our security needs in a changing world. Manpower would be reduced and weapons systems designed to fight a war in Europe against the Warsaw Pact would be eliminated, while other systems would be scaled back. Some of the savings from their cuts would be used to redesign a fighting force which reflects the present world situation.

Several domestic programs which are wasteful, or which has outlived their usefulness would also be eliminated or cut back under the bill. There are straightforward cuts in domestic programs and we give every dime of savings back to families with children. Given the size of our deficit, this is the only responsible approach.

This bill was introduced in the Senate last week by my friend and colleague Senator BILL BRADLEY. I commend him for the work he has done on this legislation and on countless other matters which have improved the fairness of our Tax Code and improved the well-being of the American family.

Investing in our children is important not only for their well-being, but for our future competitiveness, our economic security, and our quality of life. The condition of our children's lives today will shape this Nation's future. This legislation says that we believe that families are the cornerstone of a productive, healthy society. It says our kids are our most precious resources.

TRIBUTE TO THE INDUCTEES TO THE SOUTH RANGE HIGH SCHOOL ATHLETIC HALL OF FAME

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. TRAFICANT. Mr. Speaker, it is my utmost pleasure to pay tribute to the class of 1991 inductees to the South Range High School Athletic Hall of Fame in my 17th District of Ohio.

These distinguished young people have proven their expertise in the field of football, basketball, track, baseball and cross country. It is my great pleasure to introduce these individuals and to congratulate them on their outstanding performances.

They are, in football, Wayne Gaither, Chris Madeline, Bob Sahli, Dick Dillon, Ken Wellendorf; in basketball, Rich Arnold, Bon Cook, Bob Jefferies, Sarah Harris Bennett, Jim Perry, Bruce Plaskett, Bill Yoho, Curt Kaiser and Todd Sauerwein; in track, Mark Bush, Alan Thornton and Jacob "Buster" Eshler; in baseball, Don Work; in cross country, Terry Kenny; and honorary members Joe Dickey, Jr., and Coach Dick Rezek.

Mr. Speaker, I rise to pay tribute to this great people and wish them the best on their journey.

CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. GEKAS. Mr. Speaker, I would like to share with my colleagues some remarks made by Dr. Samuel Broder, Director of the National Cancer Institute, before the Congressional Biomedical Research Caucus on Monday, October 28, 1991. But first, I would like to say a few words about our caucus.

As a co-founder of the Biomedical Research Caucus, I want to thank everyone who attended the Biomedical Research Caucus' last briefing for this year, "New Frontiers in Cancer Research." Since our inception in August of 1990, our membership has grown to include 66 Members of Congress. I think we can be proud of the caucus events thus far, and the service we have provided to Congress through seven substantive briefings which offered opportunities for health policy staff to meet.

One highlight of our first full year was the July 29 briefing entitled "Research on Women's Health Issues for the 90's." At that briefing, Dr. Bernadine Healy, the first female Director of the National Institutes of Health [NIH], outlined her efforts to focus NIH's attention on the particular health needs of women. C-SPAN's coverage of this briefing enabled us to educate not only Members of Congress and their staff, but millions of viewers across the Nation. When Representatives BILL RICHARDSON, J. ROY ROWLAND, SONNY CALLAHAN and I found the caucus, we only hoped for such a wide audience.

On October 28, we finished out the year with a briefing on cancer, perhaps the most dreaded and prevalent health problem faced by the American public. Our speakers shared with us their remarkable findings on the quest for greater understanding of this ruthless killer. They rejuvenated the idea that one day, with a strong Federal investment and eager young scientists, America will find a cure for cancer.

I would like to thank Dr. George Mandel from George Washington University Medical School, who has organized the "Chairman's Caucus," a biomedical research promotional group consisting of biomedical research department chairmen from schools throughout the United States. It was good to have Dr. Mandel at the Caucus briefing.

Two groups have been leaders on this new frontier in cancer research, the American Cancer Society and the National Coalition for Cancer Research. They were represented by Dr. Walter Lawrence and Julia Sullivan, respectively, both of whom made brief introductory remarks. Dr. Walter Lawrence, president-elect of the American Cancer Society, is from the Massey Cancer Center at the Medical College of Virginia. Julia Sullivan is the executive director of the Candlelighters Childhood Cancer Foundation and board member of the National Coalition for Cancer Research. She substituted for Dr. Albert Owens, chairman of the National Coalition for Cancer Research from Johns Hopkins University, who could not be with us.

I would like to thank the American Cancer Society, the National Coalition for Cancer Research, the American Society for Cell Biology and the American Society for Biochemistry and Molecular Biology, for hosting the lunch.

Now I would like to introduce Dr. Samuel Broder, Director of the National Cancer Institute at the National Institutes of Health. Dr. Broder is our Federal general in the war against cancer and he directs our efforts. Dr. Broder is also a respected research scientist, who is largely responsible for developing AZT for use by AIDs patients. Dr. Broder spoke to us about gene therapy, an exciting new cancer treatment being used at NIH. The text of his remarks follow:

REMARKS BY SAMUEL BRODER, M.D.

I am very pleased to be here. You will also be hearing from two very distinguished scientists, Dr. Michael Bishop and Dr. Bert Vogelstein.

Twenty years ago, the National Cancer Act was signed into law establishing the eradication of suffering and death from cancer as a National priority. There is no question that the basic cancer research funded by the National Cancer Program has made a profound difference. Today, advances at the molecular level are being applied in prevention strategies, new diagnostic tests, and in experimental gene therapies.

For example, we have entered the era of genetic engineering for new vaccines and treatments of cancer. The first gene therapy used to immunize a patient against cancer occurred at NCI on October 8. This vaccine-like approach used genetically-altered issue from the patient's own tumor. An NCI team headed by Dr. Steven Rosenberg received permission from the NIH recombinant DNA advisory committee and Dr. Bernadine Healy to conduct this experimental procedure. The first patient was a 46 year-old man with advanced melanoma. A second patient with malignant melanoma, a 30 year-old woman, was immunized on October 11.

This is the latest in a series of innovative gene therapies that have been developed at NCI. Last September, researchers began gene therapy with two small girls with an inherited immune system disorder caused by the absence of the enzyme adenosine deaminase (ADA). They have since had considerable restoration of their immune function and progress has been very gratifying. These studies are the result of years of basic and clinical research and they blaze the path for treatment of cancer and hundreds of other genetic diseases. While still highly experimental and we cannot give promissory notes of success, such treatments are exciting as they offer hope where none existed.

There are many new and promising approaches to cancer prevention and control. Ultimately, the path to effective prevention is to understand the progressive genetic events that lead to a malignant transformation and the ways that these genetic determinants interact with environmental or lifestyle factors. In a sense, all of our basic research is leading to prevention and intervention strategies. More specifically, in the last year, there have been some important new chemoprevention therapies that are quite promising. Recently, one study showed that vitamin A-related compounds can prevent oral cancers and second primary head and neck tumors.

The entire field of adjuvant therapy is considered secondary prevention. Even though no tumor might be seen after it is treated surgically or through chemotherapy or radiation, new treatments are given in many cases to prevent recurrence or to knock out any residual tumor.

Perhaps I should remind you that the most important cancer preventive strategy is smoking cessation. In fact, all our efforts to reduce cancer incidence and morbidity may rest on whether or not we can reduce smoking in our society.

Perhaps we could briefly discuss the incidence and mortality rates associated with cancer. Major progress has been made in reducing deaths from childhood cancers—a reduction of 38 percent between 1973 and 1988. At the time of the enactment of the National Cancer Act, survival of children with cancer was relatively rare. Today, almost two-thirds of children with cancer now survive to the five-year "cure" point. There has also been important progress in preventing or treating many common cancers in adults under age 65. For this group, the overall death rate for cancer has fallen significantly. For example, the death rate for colorectal cancer has fallen by approximately 16 percent in the last 20 years. The death rate for ovarian cancer has decreased by approximately 25 percent and for stomach cancer about 30 percent. For bladder cancer in this age group, we have seen a decline of 30 percent. For cancer of the cervix, there has been nearly a 40 percent decrease.

However, as technology improves, underserved or high risk groups often appear to be falling behind. More logically, they are not improving, often because they are not receiving the full benefit of all these advances. The National Cancer Institute is targeting groups, such as women, minorities, the poor, and the older population, as well as specific cancers where increases have occurred, and regarding them as priority areas.

A recent study shows that high cancer rates among Black Americans are largely due to the numbers of Blacks in lower socioeconomic groups. If poverty or "poverty driven" lifestyles, unrelated to race, are potent factors for cancer, then this raises a very large social issue. NCI is addressing these issues via targeting these high risk groups and embarking on innovative education campaigns and research to find effective interventions in poor, underserved populations.

I am certain that you are aware of intense activity in the area of women's health. Caner is the second leading cause of death among women in the United States. In 1991, more than 250,000 women are expected to die of cancer and 150,000 to die specifically of lung, breast, and colon cancers, as well as cancers of the reproductive tract. NCI is pursuing a multifaceted and coordinated plan of research and application relating to women's health. Among some areas of high priority for NCI are the development and implementation of prevention clinical trials for breast cancer including dietary studies of reduced fat intake, and the role of tamoxifen chemosuppression.

Studies of access and delivery of health care for women who are medically underserved are currently underway. New therapies, such as taxol, are being developed. In brief, women participate in every phase of NCI-sponsored investigative activity, and the NCI ensures proportional representation of women in all clinical trials.

NCI is a full participant in the new NIH Women's Health Initiative. Dr. Healy, the Director of NIH, has extended the concepts initiated by NCI to develop a comprehensive, trans-NIH effort for intervention and prevention targeting the major causes of morbidity and mortality in women—namely, cancer (particularly breast but also reproductive tract, lung, and colon), heart disease, stroke, and osteoporosis. I should mention that lung cancer death rates in women now surpass death rates for breast cancer.

NCI allocates about half its budget to basic cancer research and we find it exciting that this research is leading to a unified theory of cancer. In many ways, basic laboratory research must be our highest priority. From the prototype discovery of the elucidation of the role of reverse transcriptase in allowing certain viruses to cause cancer to the most recent findings on oncogenes and tumor suppressor genes and cyclins (proteins that regulate cell division); basic cancer research has had unexpected dividends in illnesses other than cancer, yielding important insights into cystic fibrosis and neurofibromatosis and other diseases. This research has played a seminal role in the Nation's thriving biotechnology industry.

Some of the most profound discoveries have started in basic studies of rare conditions. About 10 years ago, it was discovered that the RB gene was missing in familial retinoblastoma, a rare childhood cancer of the eye. The normal RB gene appears to play a role in the suppression of cancer, so, when the gene is missing, cancer can occur. Abnormalities in the RB gene and the protein it produces have been found in acute lymphocytic leukemia, in osteosarcomas and in many of the common "adult" tumors such as lung and breast.

Abnormalities in another important "suppressor" gene, called p53, have been detected as part of somatic mutations in colorectal cancer and other common malignancies, including lung and breast cancers. Losses or mutations in the p53 gene or in its protein product, are clearly critical to the full development of these cancers.

While some cancers are caused by damaged or missing suppressor genes, other cancers appear to be prompted by mutations in growth-regulatory genes called oncogenes which become activated or amplified. Originally discovered in the 1970s in studies of cancer viruses in animals, oncogenes are now known to be part of a normal gene complement and to play a role in a wide range of human cancers, including those of the breast, lung, colon, kidney, bladder, nervous system, and blood.

One oncogene, HER-2/neu, has been found to be involved in the metastatic potential of breast cancer. Other genes, such as the myc or ras, may initiate different cancers which become fully virulent through other genetic mutations as, for example, in the RB or p53 genes.

An understanding of metastasis (the spread of cancer) may be one of the most far reaching basic research achievements. The majority of cancer-related deaths are caused by this spread of cancer cells from the original tumor to other parts of the body. While, in some cases, it is relatively easy to remove the original tumor, it is very difficult to find and treat the far-flung cells. NCI-supported scientists and NCI intramural scientists are now systematically investigating each of the genes and the steps involved in this lethal migration.

A gene has been identified that appears to act as a tumor suppressor; defects in the NM23 gene have been linked with highly metastatic breast cancer. It has recently been shown that introducing the normal NM23 gene into tumor cells prevents metastasis in animal models.

Nor can we forget the need for new therapies. We are working hard to develop a new drug which comes from a natural product. You may have read about taxol which is derived from a Yew tree in the habitat of the spotted owl. Taxol is promising in several cancers where other therapies have failed—refractory ovarian and breast cancer. Taxol is extracted from the bark of yew trees and although, unfortunately, striping the bark kills the tree, several approaches to synthesis and semi-synthesis are being developed.

Just a word about the way taxol seems to work. NCI-supported scientists have shown that a substance called tubulin serves as a major protein component of cells, which interacts with a complex of proteins called cyclins. Cyclins promote movement through the cell cycle. Tubulin is involved in cell division and it is known that several chemotherapeutic agents act upon it. Taxol acts on tubulin and "freezes" it in its polymerized form (microtubules) to prevent the cell from completing the process of cell division, hence stopping the proliferation of cancer.

I can assure you that we are very conscious and respectful of the environmental issues. We have a very good record of developing cancer drugs from natural products and it is very much in our interests to protect biodiversity and the environment.

Just a few words about how to get information from NCI if you, a family member, or friend has cancer. Call NCI's 1-800-4-CANCER phone number. Over 540,000 patients, families, and doctors received information about cancer treatment and clinical trials last year via the NCI Cancer Information Service (CIS).

The CIS covers the entire country, either through a regional office, often at an NCI Cancer Center, or through the National Office. Specific local resources are continually updated so that patients can find out exactly what exists in their own area.

We share our technology, too. Last year, to extend information services abroad, NCI installed a state-of-the-art system using a compact disk technology (CD-ROM) product at demonstration sites in three cancer research institutes in Eastern Europe. The use of this free-standing technology eliminates the expense and problems of telephone access to computer data bases. In 1992, an additional 15 systems will be installed in developing countries and 11 more will be installed in underserved areas in the United States. A number of NCI publications are also being provided free of charge to key medical libraries and academic institutions in Poland, Hungary, and the Soviet Union.

So in summary, as we acknowledge the twentieth anniversary of the National Cancer Act, it is important to take stock of where we have made progress and how much progress remains to be achieved.

IN HONOR OF NATHAN "NAT" DAVIS

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. SCHEUER. Mr. Speaker, I rise today to recognize and celebrate the life of Nathan "Nat" K. Davis, who lived in my district for many years. This Sunday a stretch of the Boston Post Road in the Bronx will be designated "Nathan K. Davis Walk" in his honor.

As a volunteer for senior citizens, Nat Davis performed many mitzvahs—that is, good

deeds. He accompanied seniors on their visits to doctors and hospitals, took them shopping, and provided them with physical therapy.

For more than 14 years, he performed these mitzvot at the Senior Citizen Center at 2440 Boston Road Plaza. It is therefore fitting that the block between Mace and Waring Avenues, in front of 2440 Boston Road, will be designated as the "Nathan K. Davis Walk" this Sunday.

Nat, a New York City civil servant for more than 25 years, was known widely for his physical education instruction at Bronx House for many years. He loved his work, especially with the seniors, and extended his program to the Parkinson's group at Co-op City.

Nat was a wonderful husband and father. His wife, Thal, who survives him, remains active in the community. She continues to live in the Davis house in Pelham Parkway, where Nat lived from 1950 until his passing in 1986.

But Nat did not limit his community service to seniors. He was a scoutmaster of Troop 133, sponsored by the Pelham Parkway Jewish Center, through which he taught youngsters outdoor living.

He gave generously to the United Jewish Appeal-Jewish Federation and other Jewish philanthropies, among other organizations.

Put simply, he was a mensch—a good person—and many will tell of him as a beloved husband and devoted father. It is fitting and appropriate that "Nat Davis Walk" be designated in his honor so that all will remember his mitzvahs and his example.

DONALD SHAFFER RETIRES FROM DUNDALK COMMUNITY COLLEGE

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mrs. BENTLEY. Mr. Speaker, It is with great respect and admiration that I congratulate Mr. Donald Shaffer upon his retirement from Dundalk Community College in Dundalk, MD.

Since 1973, Donald Shaffer has served as associate professor of political science and history at Dundalk Community College. In addition, he has been a great lecturer and teacher at Essex Community College and Harford Community College. One cannot help but be impressed by the life and career of Donald Shaffer.

A native of Iowa, he served in the U.S. Army from 1948 to 1973 when he retired as chief warrant officer of military intelligence. Mr. Shaffer coauthored a book, "People's Republic of China," while serving on the faculty of the U.S. Intelligence School. He obtained a master of liberal arts from John Hopkins University and a bachelor of science from Sopia University in Tokyo, Japan. Advanced studies include University of Virginia, University of Copenhagen, Defense Language Institute, U.S. Army Intelligence School and Army Language School. He serves on the board of trustees of Eastern Christian College and is a consultant to the American Council on Education.

A well traveled man, Mr. Shaffer has traveled to numerous countries and has led many student/study groups abroad. In 1973, he was asked by the president of Dundalk Community College to institute a series of learning vacations for students and the community. This highly successful endeavor has given students the opportunity to gain valuable insight and knowledge through their travel/study experience.

In spite of his very active professional life, Mr. Shaffer is well known for his civic involvment as well. He has done extensive work with veterans at Fort Howard Veterans Hospital and has been involved actively with senior citizens. He also has served on two occasions as guest speaker at the Defenders' Day reenactment of the War of 1812 at North Point, MD.

Without a doubt, the career and life of Donald Shaffer truly is remarkable. One cannot help but be impressed by his list of accomplishments and achievements. However, he does not deserve recognition simply upon the merit of his professional accomplishment, nor does his personal appeal rest solely with the achievements listed above. Most importantly, Donald Shaffer possesses a great wealth of character and spirit. His warmth and friendly demeanor is always evident to all he meets.

Rarely in our lifetime do we meet someone as special as Donald Shaffer. When we do, we are fortunate indeed, as they truly enrich our lives.

Mr. Speaker, my fellow colleagues, I congratulate Mr. Donald Shaffer upon his retirement from Dundalk Community College. May he have continued health, happiness, and success in the years ahead.

ST. AUGUSTINE SCHOOL CELEBRATES 100 YEARS OF EDUCATIONAL EXCELLENCE

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. GUARINI. Mr. Speaker, this year is the 100th anniversary of the St. Augustine School in Union City, NJ, in my congressional district. I ask you and my distinguished colleagues to join me in recognizing the St. Augustine School and the people who have helped to make the school such a success.

St. Augustine parish was organized by Rev. Augustine M. Brady who came to the New Jersey area from the New York disocese. He was appointed by Bishop Wigger. It was Father Brady who initiated the building of the church in 1886. To accomplish this, six lots were purchased on the block between Morgan and Gardner Streets. This property was in the area formerly known as Union Hill. Presently, these streets are 39th and 40th Streets in Union City. The first mass was celebrated in the small frame church in August 1886.

On July 6, 1891, contracts were set up for the construction of the brick school building. A mortgage of $30,000 was negotiated to cover the cost of the school as well as improvements to the rectory. The school opened in September 1891, with 100 students and 5 faculty members. The two-story brick building which housed the school was considered a model structure at the time. The first principal was Sister Mary Lucina Boylan, a Sister of Charity. The Sisters of Charity from the convent station have staffed the school in a capable and professional manner.

Father Brady resigned in 1897, due to ill health. He was succeeded first by Father Stafford who was followed by Father McLaughlin. The convent was opened on 40th Street with the purchase of the Forstman property.

In 1913, Rev. Robert Byer became pastor of the church and in 1938, he purchased the Hillie House at 312 39th Street, the site of the present convent. Father Heavy succeeded Father Byer in 1940. During this period improvements were made to the school building. The towers and fire escapes which disfigured the front of the building were removed, the main entrance was rebuilt and the building was painted. Fireproof stairways and new plumbing were installed, new rooms and corridors laid out, a library and principal's office were created and new classroom furniture and equipment installed. The school, at that time, had increased its enrollment to 400 students with Sister Alma Mercedes serving as principal.

In 1951, Father James McAvoy became pastor and he was succeeded by Father James Healy in 1954. At this time, Sister Marie Elizabeth Taffee was principal of the school. Father Healy, later Monsignor Healy, started plans for a new addition including an auditorium/gymnasium to the school. The old church had to be moved to the edge of 39th Street in order to free ground space for the new school. During the construction of the school, masses were celebrated in the old church and in the Washington School. The new addition was completed and occupied on September 9, 1957, with Sister Francis Raymond as principal.

At this same time, construction was begun on a new church building. The benches were removed from the old church and put in the auditorium for masses during the building of the new church. The present church was dedicated in July 1958. Monsignor Healy remained as pastor until his retirement in 1970. Father George Ligos served as administrator for a short time until Father Raymond Murray was appointed pastor in 1971. Msgr. Thomas Heck, the present pastor, replace Father Murray in 1976.

Many former principals are still a vital part of St. Augustine's School. Sister Katherine Carroll, who served from 1964 to 1972, is presently school secretary. Sister Rose Carmel, who was principal from 1972 to 1978, is currently the school librarian. The school has profited greatly from their expertise and leadership and continued contributions.

Since 1978, Sister Roberta O'Hea has been principal of the school. Under her leadership, the school enrollment continues to increase, a new science lab and library have been built, and a federally funded lunch program initiated. In October 1991, St. Augustine School will participate in a Middle States evaluation. Accreditation by this organization will give further credence to our philosophy and goal to provide quality education.

On November 1, St. Augustine School celebrates 100 years of educating youth. I ask my distinguished colleagues to join me in recognizing the achievements and contributions of the school as well as the people who have

made the school what it is. St. Augustine continues to serve the needs of the multicultural population of Hudson County and we are thankful that it is a part of our community.

SAN DIEGO IS HOME OF NAVAL AVIATION

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. HUNTER. Mr. Speaker, San Diego has long been recognized as "Navy Town U.S.A." What many of my colleagues may not know is that San Diego is also the home of naval aviation. In fact, the First Naval Aviation Detachment chose North Island as its winter quarters in 1912.

This year, Mayor Maureen O'Connor proclaimed San Diego to be "The Birthplace of United States Naval Aviation." I have reprinted the proclamation below.

THE CITY OF SAN DIEGO—PROCLAMATION

Whereas San Diego has a long and distinguished association with Naval Aviation; and

Whereas Lieutenant T.G. "Spuds" Ellyson, Naval Aviator Number One, received his flight training from Mr. Glenn Curtiss at the Curtiss Aviation School; and

Whereas the Curtiss Aviation School was opened on North Island on January 17, 1911; and

Whereas Lieutenant Ellyson was certified by Mr. Curtiss as a qualified aviator on April 12, 1911 in San Diego; and

Whereas Mr. Curtiss effected the first direct link up of an airplane and a United States naval vessel, by bringing his hydroaeroplane alongside U.S.S. Pennsylvania, having it hoisted aboard and later returned to San Diego Bay February 17, 1911; and

Whereas on February 25, 1911 Mr. Curtiss carried out the first successful amphibian flight from San Diego Bay on the "Triad" which served as the model for the first two aircraft acquisitions by the United States Navy, the A-1 and A-2; and

Whereas the First Naval Aviation Detachment selected North Island as its winter quarters in 1912:

Now, therefore, I, Maureen O'Connor, the Thirty-first Mayor of the City of San Diego, do hereby proclaim San Diego to be "the Birthplace of United States Naval Aviation", and commend to the citizenry the illustrious heritage of civilian and military aviation in this august City and commit to the continued productive partnership of the civilian and military communities in San Diego.

SUCCESS OF THE MIDDLE EAST PEACE PROCESS IS PREDICATED ON THE ADMINISTRATION'S ABILITY TO COMPREHEND THE ROOT CAUSES OF INSTABILITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. LANTOS. Mr. Speaker, as I watched representatives from Israel and the Arab nations sit down together in Madrid to discuss their shared future in the world's most volatile region, I was filled with both hope and fear.

While I sincerely hope that this historic conference will lay the groundwork for a lasting peace in the Middle East, I fear the administration is pursuing a policy based on a fundamental misunderstanding of the realities of that troubled region.

The administration will fail in its goal to bring peace and stability to the Middle East if it continues to ignore those realities. The genuine obstacles to stability in the region do not stem from the policies of Israel, the only democracy in the Middle East. Those barriers have been constructed by the leaders of the neighboring Arab nations.

It is the fundamentally undemocratic nature of the Arab governments—regimes that illegitimately sustain themselves through suppression and brutality—that stands in the way of stability. The elusive goal of peace will only be reached when the administration pursues a policy that takes these realities into full account.

Mr. Speaker, an editorial that appeared in the Wall Street Journal last Friday is an excellent examination of this issue. I ask that it be inserted in today's RECORD and I ask my colleagues to give it the thoughtful attention it deserves:

[From the Wall Street Journal, Friday, Oct. 25, 1991]

PEACE CONFERENCE PUZZLE

If you've been reading—or trying to read—all the coverage these many weeks about the Middle East peace conference now scheduled for next week in Madrid, and thinking that in the wake of the Iraq war it somehow doesn't all quite add up, here's why:

George Bush and James Baker have untied U.S. Mideast policy from its traditional mooring—Israel and democracy—and set it adrift in neutral waters between Israel and that mythical land, the unified Arab world. It's a strange voyage.

Many of us had thought that one of the primary fruits of the Iraq war would be a reorientation of the Gulf and other Arab states toward the political system that exists in most of the world—that is, away from dictatorships and absolute monarchies and toward a greater degree of popular self-determination. But no.

To soothe Arab sensitivities George Bush decided to spare Saddam Hussein and his dictatorship. Turkey's Turgut Ozal is the first victim of this mistake. When Mr. Bush withdrew, Mr. Ozal was left out on a limb with the Kurdish issue festering on his border. Saddam Hussein has been arming the Kurds to fight for independence from Turkey. Last week Turkish voters took out their frustrations for this mess on Mr. Ozal, who remains in power but with a greatly reduced base of support.

American submissiveness to Arab sensitivities also has scotched U.S. Gulf security plans. According to the Washington Post, the U.S. is withdrawing the weapons stockpile that it had hoped would be part of a postwar security umbrella for the region. The Arab regimes prefer to build up their own armies.

The least attractive shift in U.S. policy has been symbolized by the repeated trips James Baker has made to pay court to Syria's murderous dictator, Hafez Assad, one of next week's Madrid "peace" participants. The State Department apparatus that two years ago sanitized Saddam's crimes is now polishing Assad's image. The U.S. winked at Syria's October 1990 invasion of Lebanon and insists that Lebanon is still independent, though even the Syrian defense minister talks about Syria and Lebanon as "one country."

The U.S. has been unruffled by Assad's $3.5 billion postwar arms buildup (he reportedly spends 60% of his government budget on his army). The Syrian dictator has purchased 150 North Korean Scud Cs, and up to 24 Chinese M-9s. Factories at Damascus and Homs churn out chemical weapons to go in missile warheads. State also avoids mention of Syria's control of the $4 billion drug trade in the Bekaa Valley and Syrian unwillingness to cooperate with American drug-enforcement authorities.

Meanwhile, with the region bristling with dictators, terrorist armies and chemical weapons, Mr. Baker says the biggest obstacles to peace in the Middle East are West Bank Jewish settlements.

Mr. Assad, who's been around the Middle East even longer than Mr. Baker, knows that in reality the Israeli issue is mainly a playground for larger Arab power struggles.

If Mr. Baker looks around the room at the Middle East conference in Madrid next week, he will see the representatives of Syria, which has been at virtual war with the PLO since 1982, culminating in bloody battles last summer between Syrian and Palestinian forces in South Lebanon; Jordan, whose army massacred 8,000 Palestinians in 1970, and whose king continues to deny self-determination to the 70% of his population that is Palestinian; and Saudi Arabia, which demonstrates its concern for the Palestinians by expelling tens of thousands, and which has been trying to destabilize the regime of its Arab brother Jordan.

The Madrid peace conference must contend with not only the usual pit of Arab rivalries, but also a postwar power struggle for dominance in the Arab world among Egypt, Saudi Arabia and Syria. By focusing postwar attention on the Israeli dispute rather than economic development or democratization; the U.S. has ensured that Syria will emerge as the dominant Arab power. Egypt and Saudi Arabia are necessarily peripheral.

Perhaps Mr. Assad sees some further advantage for himself in conciliation with Israel, but more likely he wants to string the process along to keep the world coming to his doorstep. He's probably already spiked the peace process by refusing to take part in Phase III, the nuts and bolts cooperation talks on such things as water rights and arms control. To Israel, peace means cooperation between neighbors, Syria is inviting Israel to give up land without any promise of real peace.

Historians will have to figure out if America's bolstering of Syrian power was intentional or the result of Mideast inexperience. Thus far, it looks as if the central image of the peace process is Mr. Baker laboring among the procedural details, while the larger Arab power struggles play out over his head.

TRIBUTE TO MRS. ESTHER PILLEN

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. JACOBS. Mr. Speaker, As will be noted in the following obituary, Esther Pillen was the

top assistant to my father when he served in the 81st Congress. I remember Mrs. Pillen as a woman of superior intelligence and iron will. In other words, she brooked very little nonsense from me when I visited the congressional office from time to time.

She was a wise and good woman who gave much of her life to the betterment of this institution.

[From the Washington Post, Oct. 30, 1991]

ESTHER R. PILLEN

Esther Rupple Pillen, 84, a retired Capitol Hill administrative assistant, died of cancer and heart ailments Oct. 22 at Carriage Hill Nursing Home in Silver Spring.

Mrs. Pillen was a lifelong resident of Washington and a graduate of Eastern High School. She attended George Washington University.

She began her career on Capitol Hill in the 1920s as administrative assistant to Sen. Simeon D. Fess (R-Ohio). From 1929 to 1949 she was administrative assistant to Rep. Louis Ludlow (D-Ind.). She worked for Rep. Andrew Jacobs Sr. (D-Ind.) from 1949 until 1951. She did not work on Capitol Hill during the next eight years, then served on the staff of Rep. Joseph W. Barr (D-Ind.) from 1959 until 1961 when she retired.

She had been a Red Cross assistant at Walter Reed Army Hospital and had participated in activities of the Crestwood Citizens Association in Washington. She was a member of Columbia Country Club, and she played bridge.

Her husband of 52 years, Herbert Pillen, died in 1988. She leaves no immediate survivors.

SALUTE TO THE RONALD REAGAN PRESIDENTIAL LIBRARY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. GALLEGLY. Mr. Speaker, I rise today to honor one of the most significant events in the history of my hometown of Simi Valley, CA—the opening of the Ronald Reagan Presidential Library.

Next Monday, I will be privileged to participate as President Reagan, joined by President Bush and former Presidents Nixon, Ford, and Carter, opens his California mission-style library complex. This magnificent center will serve as a mecca for historians, as well as Americans from all walks of life, for decades to come.

Although President Reagan has never lived in Ventura County, it is logical and appropriate that he has chosen our community, located roughly halfway between his home in Bel-Air and his ranch in Santa Barbara County, as the home for his library. The vistas from the hilltop library site are stunning—on a clear day, you can see the Channel Islands some 60 miles away. In addition, President Reagan filmed several of his movies nearby and owned a ranch just 10 miles away for several years.

But more importantly, Simi Valley, along with the rest of eastern Ventura County, is and always has been Reagan country. Ronald Reagan is revered in my county for his beliefs, for his leadership and for what he stands for. Ronald Reagan stands for an America of leadership, an America of opportunity for everyone, and an America that truly is a shining city on a hill. Ronald Reagan knows that our Nation will have problems, but he also knows that with hard work and commitment to our basic principles, we will solve those problems and move ahead.

That was the basic lesson of the Reagan Presidency, Mr. Speaker, and is the reason that hundreds of thousands of people, from Maine to California, and from all around the world, will come to Simi Valley to learn more about this man and his times.

Mr. Speaker, I ask my colleagues, Republicans, Democrats and independent alike, to put aside partisan differences and join me in honoring Ronald and Nancy Reagan, and in commemorating the opening of the Ronald Reagan Presidential Library.

OPPOSITION TO H.R. 2730

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. McEWEN. Mr. Speaker, I rise to speak in opposition to H.R. 2730, the so-called Pension Simplification measure.

I speak on behalf of a great many Ohioans and on behalf of millions of American workers as well—workers whose long-range financial and retirement planning will in many cases be severely damaged if the proposals in H.R. 2730 become effective.

Let me say initially that there are positive proposals in this bill and similar bills which have been introduced aimed at broadening employee participation in the qualified retirement plan system, and this is, of course, a good thing. However, several of those broadening provisions are aimed at the small business community, and would require employer contribution of 3 percent of pay for all eligible employees in exchange for freedom from burdensome nondiscrimination testing. I have heard no cheers nor groundswell of support for these proposals from small business.

On the other hand, the expansion of eligibility for participation in section 401(k) plans to employees of exempt organizations and State and local governments is undoubtedly widely welcomed, as is the proposed clarification of the definition of a "leased employee."

Now these ostensible improvements in our Nation's pension system will have a collective price tag—a revenue expenditure cost. The bill sponsors tell us that these revenue costs will be balanced by other provisions in the bill labeled as "pension simplification," which provide the offsetting revenue enhancement to balance this bill. I say that those revenue enhancements are ephemeral—that they will never come—that American workers know enough about taxes and their own finances that they will not simply pour their own money down a proverbial rat hole—and that this bill, if enacted, will result in a revenue drain. Why? Because the proposals attach a tremendous price tag to lump sum distributions by removing every favorable tax device such distributions presently enjoy—5-year averaging, 10-year averaging, the exclusion of net unrealized appreciation in employer securities, the partial exclusion from the onerous 15 percent excise tax on excessive distributions.

Each of these changes is presumed by the plan sponsors to be a revenue raiser through the eradication of a tax benefit. In truth, a retiring plan participant will look at these new tax burdens and without question recognize that the only reasonable move is to roll over his or her distribution into an IRA. The result will be a real loss of revenue as the tax is realized over a period of years stretching 10–20–30 years into the future, as opposed to any taxes presently being paid at retirement. In fact, a person rolling into an IRA could defer paying any tax until they reach age 70½ if there is other income available to live on in the meantime.

Therefore, when we hear that revenue is the drive behind these changes, and that the bill is revenue neutral, I do not believe it.

And this brings us to the hidden agenda: These simplification proposals are meant to destroy the concept of lump sum distributions by forcing all retirees into rollover IRA's.

Is this a good and necessary result? It is not necessary and it is not necessarily good.

It is not necessary because the IRA rollover has been available since coming into being under ERISA in 1974. The device is widely known and widely utilized by those plan participants changing jobs and by retirees as well. There is no need to force retirees into an IRA.

It is not necessarily good because the individual retiree may have his or her own perfectly valid reasons to pay the tax on a lump sum distribution at the time of retirement. Some of these reasons are emotional—it is most satisfying to own one's own estate outright, having full capacity to handle one's own affairs. Some reasons are practical—it might be desirable to open a business of one's own, to purchase a new retirement home or RV. Some reasons are brutally realistic—terminal illness may dictate quick dispersion of the estate to children or to charities. Some reasons are cynically wise—tax rates will go up—let me pay my tax now. But the most telling reason is simply reason itself. Why force retirees into a mode already available to them by taking away the choice to do anything else? And that's what this bill would do.

By repealing 10-year averaging, we are breaking a promise we made to American workers in 1986 to grandfather amounts in the accounts of senior employees at that time. By repealing 5-year averaging, we are ignoring the fact that retirement distributions are funds that have accumulated over a lifetime of work, and we are going to tax them as though they have suddenly appeared on the day of retirement.

By repealing the exclusion of net unrealized appreciation in employer securities, we are saying that you have not accumulated these shares over a lifetime either. Investment in the securities of your employer is the ultimate profit sharing. And, under present law, the tax on that unrealized appreciation will be paid as the retiree liquidates holdings through the course of retirement. But if you had personally bought these shares we would not, and do not, tax that appreciation until you sell the

shares. Where is the difference? Further, we're telling plan participants that they would be better served by investing in some fixed yield instruments in their plans rather than tying their future to the fortune or misfortune of their employer. Why should the employee take the risk of such investment in the employer's securities without the promise of equitable tax treatment?

And, finally, by reducing the threshold for application of the 15-percent excise tax on so-called excessive distributions from $750,000 to $150,000, we would simply make a bad tax worse. We made a mistake in 1986 in the application of this egregious tax. We should not compound that mistake now. If anything, this excise should be repealed.

In summation, H.R. 2730 contains some provisions which might help some businesses, but those provisions are being paid for by measures which will hurt and disrupt the plans of many individuals, and those measures are being painted with the color of money which will not be there. That paint will wash off with the first rain.

COMMEMORATING THE 50TH ANNIVERSARY OF THE UNIVERSITY OF TEXAS M.D. ANDERSON CANCER CENTER

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. ANDREWS of Texas. Mr. Speaker, the year 1991 marks the 50th anniversary of the founding of The University of Texas M.D. Anderson Cancer Center, which today ranks as one of the world's premier centers devoted to the conquest of cancer.

Throughout its 50-year history, M.D. Anderson has been a pioneer in the fight against cancer. M.D. Anderson Cancer Center was one of the first comprehensive cancer centers in the United States designated under the terms of the National Cancer Act of 1971. Dr. R. Lee Clark, who served as M.D. Anderson's first full-time director and then as president over a 32-year period, was one of three members appointed to the original President's cancer panel in 1972. Since Dr. Charles A. LeMaistre assumed the presidency in 1978, M.D. Anderson Cancer Center has flourished in scope and now sets one of the Nation's highest standards for excellence in multidisciplinary patient care, research, education and prevention.

More than 270,000 patients from throughout the United States and 80 foreign countries have turned to M.D. Anderson Cancer Center for cancer care. Additionally, more than 25,000 physicians, scientists, nurses and other health care professionals have received part of their training at M.D. Anderson Cancer Center. The center has been a productive leader in conducting innovative research trials to improve therapies for cancer patients that are now available worldwide.

During the past half century, many major advances in cancer research and therapy have been achieved at M.D. Anderson. Examples of this progress include:

The design of the cobalt-60 unit, which made radiation therapy practical;

The first observation of virus-like particles in human cancer tissues;

The installation of the Nation's first hospital-based cyclotron to treat patients whose cancers resist conventional forms of radiation;

The construction of the country's first hospital operating suite specifically designed for electron-beam intraoperative radiotherapy;

The development of a banding technique to identify 46 mammalian chromosomes and methods to detect genetic-associated cancers;

The development of three generations of blood cell separators that divide blood into components to combat life-threatening infections, control hemorrhages and treat other complications;

The initial development of tiny portable drug-delivery pumps that have allowed thousands of patients to receive chemotherapy outside the hospital;

The design of a cold chamber cryostat that significantly improved pathologists' abilities to diagnose cancer while patients were in surgery and expedited preparing surgical specimen slides;

Pioneering chemoprevention studies to demonstrate the value of synthetic vitamin A analogues in preventing secondary head and neck cancers and reversing premalignant lesions;

One of the Nation's most extensive programs to test interferon and other biological substances;

Landmark contributions to limb-salvage treatment, in which bone cancer patients take chemotherapy before and after surgery to avoid amputation of affected limbs and diseased bones are replaced with metal prostheses or donor bones;

One of the country's largest bone marrow transplantation programs, supported by the first protected environment, a 22-bed unit for patients whose immune systems are suppressed during treatment;

The clinical application of interventional radiology methods to deliver anticancer drugs directly into deep-seated tumors;

The discovery of new information about how ultraviolet light can damage the immune system, leaving many people vulnerable to serious skin cancers.

M.D. Anderson's far-reaching research contributions continue adding to the knowledge needed to improve survival rates and, ultimately, achieve lasting cancer control through effective prevention strategies.

We thank the University of Texas M.D. Anderson Cancer Center on behalf of all those whose lives have been touched by this renowned institution and offer warm congratulations in this golden jubilee year. We look forward to the distinguished service from this institution that continues bringing international acclaim to the entire Nation.

THE MIDEAST'S REAL TROUBLES AREN'T ARAB-ISRAELI

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. HUNTER. Mr. Speaker, with the focus on the Middle East this week I would like to commend to my colleagues the following article from the Wall Street Journal. Mr. Doron makes a very interesting point that the real problems in the Middle East are not Arab-Israeli. I would encourage my colleagues to read this very intriguing commentary.

[From the Wall Street Journal, Oct. 31, 1991]

THE MIDEAST'S REAL TROUBLES AREN'T ARAB-ISRAELI

(By Daniel Doron)

TEL AVIV.—This is a week of hope, as Israeli leaders are finally allowed to sit down with their Arab neighbors to talk peace. But it is also a week of worry, because the Madrid summit is based on a faulty premise: That all of the region's problems can be viewed through the keyhole of the Arab-Israeli conflict. This conceptual framework was set decades ago by Arabists in the British Foreign Office, and has been adopted unwittingly by experts at the U.S. State Department.

Yet the fact remains that in comparison with the momentous upheavals rocking the Muslim world, the Arab-Israeli conflict is a sideshow with little geopolitical significance. It is a derivative conflict, Israel being the target of convenience for Islam's great sense of hurt and obsessive hostility toward the West.

This hostility reflects the deep crisis in Muslim societies and politics. They are experiencing explosive tensions, compounded by religious zealotry and xenophobic nationalism.

It is these forces that fueled the eight-year carnage between Iraq and Iran, the brutal takeover of Kuwait, the massacres of Shiites and Kurds, the 15-year factional bloodbath in Lebanon, repeated Syrian atrocities against a variety of ethnic and political groups, including its own Sunni majority, the violent takeover of Lebanon, murderous hatred between Syria and Iraq, Syria's several attempts to conquer Jordan, Nasser's bid to take over Saudi oil through a proxy war in Yemen, the bloody Yemeni civil war (where gas was used), the repeated killings of Copts by Egyptian Muslims, Algerian subversions against Morocco, Libya's aggression against all its neighbors and its wholesale involvement with terrorist movements. The list can go on to include other cases where an Islamic revival was given militant expression.

Yet there are those who are still convinced that of all these terrible conflicts, the Arab-Israeli struggle, confined to simmering *intifada*, is of paramount significance. It should be clear, however, that most of these explosive conflicts would have persisted, and perhaps even worsened, had Israel ceased to exist or been rendered weaker by a land-for-peace "settlement." Moreover, the wealthy but feeble oil states would long ago have ceased to exist had not the unifying hatred toward Israel prevented their brethren from attacking them.

True, an Arab crusade against Israel could temporarily galvanize parts of the Muslim world. But the powerful religious, social and economic divisions that tear at Islamic soci-

eties would subsequently incite—unless checked in time—much worse internecine brutalities. Remember that Christian Europe needed several centuries to control such forces. The crucial difference would be that today's crusades would not be fought with bows and arrows, or even with simple rockets and missiles, but with more accurate Scuds that are armed with weapons of mass destruction.

Even those who insist that the Arab-Israeli conflict requires the most urgent resolution could achieve faster progress if they would tackle its more basic causes. The Israeli people would be more inclined to accept the enormous risks involved in relying on peace agreements made with ruthless dictators if the U.S. made certain assurances.

President Bush could insist that international terror, such as the Pan Am bombing over Lockerbie, is no less an impediment to peace than the caravans erected on several barren West Bank hills. He could show a determination to control terrorism's sponsors, insisting that Syrian President Hafez Assad not give terrorists safe haven, or aid and abet the Lebanese proxies of the most extremist Muslim groups working under Iran's banner to undermine the peace conference (Iran has just restated its determination to destroy Israel and to develop an Islamic bomb). He could use his good offices with America's friends in the Persian Gulf and Arabia—whose lives and fortunes have just been saved with American blood and treasure—to cease financing the purchase of even more accurate Scuds from North Korea to threaten Israel.

Most important, President Bush could greatly advance world peace by demonstrating, as he has admirably done with Iraq, that the U.S. will not tolerate the proliferation of weapons of mass destruction to countries explicitly threatening to destroy others, and that he will not permit the subverting of his new world order. The president could make sure that the same effective safeguards now installed to prevent Iraq from acquiring nuclear weapons are imposed on other countries that are a threat to world peace.

The U.S. must also urgently address the misery afflicting most inhabitants of Muslim countries, which underlies their endemic violence. It should encourage economic growth and prosperity, the prerequisites to the evolution of democratic institutions and a civil society, just as it encourages reforms in formerly communist countries. Without economic freedom, political freedom cannot emerge; and without political freedom, Muslim countries, ruled by dictatorial factions, cannot live in peace for long, as the renewed aggressive posture of Iran demonstrates.

Tackling the oil cartel, which provides Muslim dictators with the treasure necessary to finance their aggression and buy political clout (as the Bank of Credit and Commerce International scandal revealed), would give enormous impetus to peace while improving world economic prospects, thus granting the U.S. extra political dividends.

Expecting the U.S. to undertake such bold economic and political initiatives may seem a utopian quest. But as changes in Eastern Europe prove, only basic social, political and economic reform can reorient belligerent dictatorships toward peace. Economics is important here. Income from oil sales has given rise in many Arab countries to a wasteful public sector and a runaway military-industrial complex.

The present wide divisions of wealth in the Arab world incite a radicalism that will eventually erupt in wars. Since, with the availability of terrible weapons, such wars could cause a world conflagration, their prevention should be a major U.S. foreign-policy goal. But to succeed, the U.S. must refocus its policy on the basic problems facing the Islamic world rather than only the Arab-Israeli conflict. Now is the time to do it.

TRIBUTE TO DAVID FRAM

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. JOHNSON of Texas. Mr. Speaker, I would like to take this opportunity today to commend a man who is a true American success story, defying the odds laid before him and proving that perseverance and faith do prevail.

David Fram has accomplished a great deal in a relatively short amount of time, overcoming numerous hurdles along the way. After spending 38 years in a State school, David Fram made the difficult transition into Miller House, a group home in Dallas, TX, for adults with mental retardation.

Since that move in 1984, David has become a beacon to both religious and civic communities in Texas' Third District. He works as an elevator operator at the Stoneleigh Hotel, volunteers for a local retirement home, and is president of the Dallas Area Texas Advocates sponsored by the National Association for Retarded Citizens [ARC].

It is because of that dedication and commitment to our Dallas area community that David Fram was selected as this year's ARC recipient of the Bill Sackter Award. The national award is given to only one American each year who shows an exceptional success in the transition into community living.

Mr. Speaker, David Fram is an inspiration to us all. I offer my admiration and my heartfelt wishes for many more successful years in his endeavors to make our community a better place to be.

IN RECOGNITION OF THE BAYVIEW HUNTERS POINT MULTIPURPOSE SENIOR SERVICES

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Ms. PELOSI. Mr. Speaker, I rise to recognize Bayview Hunters Point Multipurpose Senior Services on the occasion of their 20th anniversary.

In 1971, with the determination of its founders—Sam Moore, Matti Kimp, Leslie Hopkins, Marsha Berger, Phyllis Kearny, Rebecca Stark, Robert Lavida, and Virginia and Willie Thomas—the Bayview Hunters Point Senior Services Center was incorporated. Operating from the Bayview Lutheran Church, the agency began and continues to provide services including outreach, recreation programs, and social service referrals.

George Davis was hired as program director of the center in 1978 to develop a multipurpose senior center. His efforts were successful, a building was purchased, and the multipurpose center began its programming for seniors, including social service counseling, health screening, legal assistance and educational programs. Dr. Davis was then hired as the executive director for Bayview Hunters Point Multipurpose Senior Services.

After years of planning and fundraising, the Bayview Hunters Point Adult Day Health Center opened in 1984. The agency, in addition to providing health care to frail elders and disabled persons, became a member of the San Francisco In Home Supportive Services Consortium in order to provide health care to elders at home. Other programs developed between 1987 and 1991 include the Independent Elders Program, Project Voice, a telephone volunteer training program, and monthly outreach presentations.

As the Bayview Hunters Point Multipurpose Senior Services moves into its 20th year, new goals for services and projects abound. Goals for the future include the creation of an Afrocentric nursing home, a comprehensive adult day health model with senior housing, and coordination among community resources including the black church and a national black aging network dedicated to facilitating these services throughout the United States.

I commend the leadership of Dr. George Davis, along with the founders, the board of directors, and staff of Bayview Hunters Point Multipurpose Senior Services, which continues to grow and flourish, providing many needed programs and resources for seniors in San Francisco.

I commend the leadership of Dr. George Davis, along with the founders, the board of directors, and staff of Bayview Hunters Point Multipurpose Senior Services.

TRIBUTE TO "TRANSILVANIANA" SOCIETY ON THE OCCASION OF ITS 85TH ANNIVERSARY

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. VISCLOSKY. Mr. Speaker, I rise today to pay tribute to the "Transilvaniana" Society from East Chicago, IN on the occasion of its 85th anniversary. The society has been linked to many important moments in Romanian-American history.

The "Transilvaniana" Society was founded on December 10, 1905. Less than 1 year later, it took part in the union of Romania societies in Martins Ferry, OH, where it received the number "3". The society bears this number with pride today. The delegate to the meeting, Filon Holom, was elected second vice president of the newly formed Union of Romanian Societies of America, Inc.

In the same year, the society's members began construction of a new church, the New St. George, which they continue to support. The society's members held an impressive demonstration against the gathering that Count Karoly was holding in favor of the Hungarian state, on June 22, 1914. In the same year, the society made a substantial contribu-

tion to an orphanage in Sibiu. Also in 1914, they welcomed a Romanian delegation made up of the Reverend Father Vasile Lucaciu, the Reverend Father Loan Mota and Lt. Vasile Stoica.

Today we are witnesses to the continuing inhumane conditions the Romanian orphans are enduring, both physical and psychological, that have shocked the entire world. The "Transilvaniana" Society adopted a Romanian orphan after World War I. From 1918 on, the society regularly sent money for his upbringing. The money was sent to the American Committee for the Care of Romanian War Orphans, headed by the daughter of President Woodrow Wilson. In addition, the society donated important sums of money for the care of other war orphans, which were sent directly to Queen Marie of Romania.

The "Transilvaniana" Society has always maintained a very active Romanian cultural life here in America. The members attended concerts in Chicago conducted by the internationally known Romanian composer and violinist, George Enescu. In 1926, they went to New York to greet Queen Marie of Romania with Romanian and American flags.

During World War II, the society contributed to the American Red Cross, and has always donated to worthy causes. It was among the first to send a donation for the Romanian orphans after the revolution of December 1989, and was also among the first to donate money so that the union and league headquarters would have its own building, which they occupy today.

The society has been in the forefront supporting the union and league's activities, and Romanian life in general, in the United States. I have had occasion to spend time with the people of the "Transilvaniana" Society, and it is evident that this society has served to nourish and perpetuate the Romanian spirit in the United States. I would like to congratulate the members on their 85th anniversary celebration and wish them continued success in bridging the gap between Romania and America.

DOMESTIC VIOLENCE AWARENESS MONTH

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. LIPINSKI. Mr. Speaker, I would like to take this opportunity to stress the significance of October as "Domestic Violence Awareness Month." Unfortunately, domestic violence is prevalent in our country. An estimated 3 to 4 million American women are battered each year by their husbands or partners. Research suggests that wife-beating results in more injuries requiring medical treatment than rape, auto accidents, and muggings combined. This tragedy is not confined to any particular race or socioeconomic group—it occurs in all sectors of our society. "Domestic Violence Awareness Month" is an opportunity to dispel myths surrounding domestic violence and to bring public attention to the problem.

Statistics on domestic violence are shocking. The Federal Bureau of Investigation reports that 30 percent of female homicide victims are killed by their husbands or boyfriends. According to another study, violence will occur at least once in two-thirds of all marriages. Moreover, the Illinois Coalition Against Domestic Violence tells us that 30 percent of battered women are physically abused during pregnancy.

Children in homes where domestic violence occurs are also adversely affected. They are physically abused or seriously neglected at a rate 1,500-percent higher than the national average in the general population. Furthermore, these children are at a higher risk of alcohol and drug abuse.

Unfortunately, women have often been forced to suffer in silence because of misunderstandings about domestic violence. As legislators, we should enact laws to address this serious problem. We must work toward providing more shelters and services for battered women and their children. We must change the criminal justice system to hold abusers more accountable for their violence. Most importantly, we must make it our top priority to uphold the rights of battered women.

DADE COUNTY EDUCATORS WIN GRANT FROM BILL OF RIGHTS EDUCATION COLLABORATIVE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, Ms. Charlotte Christensen and Ms. Ruby Wanland, both highly regarded and talented social studies educators in the Dade County Public School system, have been awarded a grant from the Bill of Rights Education Collaborative sponsored by the American Historical Association and the American Political Science Association. Their project, entitled "Opening the Doors of History to Democracy," was considered by the review board to be an impressive design, integrating strong intellectual content with a cooperative effort linking educators and community organizations.

The Bill of Rights Education Collaborative grant competition offers minigrants to educators to implement their own projects and teaching methods devoted to constitutional rights. The project need not be limited to school audiences alone, it may also include professional and community components. The goal of this collaborative effort is to foster innovative teaching methods that help the community-at-large continue to learn. The project submitted by Ms. Christensen and Ms. Wanland successfully met the objectives of this program with a historical survey of how democracy has taken root and grown in America, as embodied by the Bill of Rights.

Ms. Christensen and Ms. Wanland have contributed much to the Dade County School system as effective educators and innovators. Together they initiated, developed and implemented the Student-At-Risk Program at Miami Beach Senior High. Also, both are resident social studies teachers for the Dade Academy for the Teaching Arts [DATA]. Mr. Speaker, Ms. Christensen and Ms. Wanland have brought their unswerving commitment to excellence and extensive experience to education. I am confident that these teachers will successfully execute their program, "Opening the Doors of History to Democracy," and offer South Florida a greater sense of where democracy in America has come from and what it requires from us today.

NEW JERSEY HISTORIC CANALS ACT

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. ZIMMER. Mr. Speaker, I today I have introduced legislation today that would begin the process of designating the Morris Canal and the Delaware and Raritan Canal in New Jersey as national heritage corridors.

The bill would require the U.S. Interior Department to study the two canals, recommend future conservation options and suggest a detailed plan for financing and implementation.

The 1-year study would describe and delineate the proposed boundaries of the corridors. It would also provide an inventory and assessment of their historic, economic, natural, recreational, scenic, cultural and scientific resources.

Individuals and organizations interested in the two canals would participate in the study, which would be conducted by the National Park Service.

Both of these canals have been placed on the National Register of Historic Places in recognition of their important historical contributions. Barges traveling the Morris Canal transported anthracite coal from northeastern Pennsylvania to coastal markets and the developing iron industry along the canal. The D&R Canal was the first level connection between New York and Philadelphia. Both canals were vital links in the development of our Nation's transportation system and contributed to New Jersey's early economic growth.

The areas to be studied include the 102-mile Morris Canal, which stretched from Phillipsburg to Jersey City, the 66-mile Delaware and Raritan Canal, which runs from New Brunswick to Bordentown, and the 22-mile feeder canal for the Delaware and Raritan which runs from Raven Rock in Hunterdon County to the canal in Trenton.

Studying the two canals is a necessary first step to their possible designation as heritage corridors.

Quick passage of this bill is important to New Jersey. A national heritage corridor designation would spur preservation efforts along the Morris Canal, which was covered over after it was closed to navigation in 1924. The D&R Canal, which is already the centerpiece of a State park, would benefit from recognition of the area's national significance.

MEXICO: ON THE FAST TRACK

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. DREIER of California. Mr. Speaker, last spring, Congress gave President Bush the authority to negotiate a free-trade agreement with Mexico. Since that time, critics have charged that Mexico has done little to move towards a free-market economy, which is critical if we are to improve economic relations between our two nations.

The enclosed article, published by the Inter-American Development Bank, points out that Mexico has indeed made great strides in this area. I would hope that my colleagues will consider it carefully.

MEXICO: ON THE FAST TRACK—INTERNAL REFORMS AND EXTERNAL TRADE PACTS

Mexico has emerged from the "lost decade" of the 1980s with an increasingly robust economy, a government committed to fundamental change, and the prospect of a commercial link-up with the United States and Canada that would create a unified market of some 360 million people.

The country is building its economic growth on a foundation of measures to stabilize and restructure the economy. The government moves have been bolstered by progress in debt negotiations, an increase in world oil prices and the start of talks on a North American free-trade agreement.

The good results have been reflected in Mexico's gross domestic product (GDP), which last year grew at a rate of 3.9 percent. Moreover, the growth rate built up momentum during the year, starting at 1.9 percent in the first quarter and increasing to 5.8 percent for the final quarter.

CONSENSUS ON POLICIES

Much of the credit for Mexico's economic performance goes to the government's new policies and the consensus it has achieved in carrying them out.

For example, an agreement last year on the fourth and fifth phases of the Pact for Stability and Economic Growth, which seeks to coordinate prices, wages, and the exchange rate, produced measures to increase some energy prices, adjust the minimum wage and reduce the exchange depreciation.

The government continues to focus its fiscal policy on increasing public revenue and improving efficiency in resource allocation. The tax rate for companies was reduced from 37 percent to 36 percent, and in 1991, to 35 percent. The maximum rate for individuals was dropped from 40 to 35 percent. Despite the lower tax rates, improvements in collection procedures boosted tax revenues from 9.8 percent of GDP in 1989 to 10.4 percent of GDP in 1990. Part of the revenues is being used to increase investments in education, health and urban development, and to assist needy communities.

In the area of finance, constitutional reforms were approved to allow majority private sector participation in commercial banking, including participation of foreign investment.

Government deregulation measures included a revision of the regulatory framework governing the telecommunications and transportation sectors to encourage competition and reduce costs.

Finally, the process of privatization took a major step last year with the sale of state-owned shares of TELMEX, shifting management of the telecommunications giant to the private sector. About 1,155 public enterprises were in existence when Mexico began its privatization process in 1982; only 285 remained last year.

HIGHER PRODUCTION

Mexico's agricultural production and manufacturing both posted gains last year. Agriculture reversed the trend of the previous two years, and the 3.4 percent annual growth rate was the highest since 1985.

For the fourth year in a row, the manufacturing sector grew faster than the economy as a whole. The most active areas were metal products, machinery and equipment, in which the real increase in production was 12.9 percent. This performance was primarily due to the vitality of the automotive sector.

The 7.7 percent growth in construction activity was the highest in nine years the result of an increase in public investment and greater availability of credit at lower interest rates.

Particularly encouraging was the performance of Mexico's private sector investment, whose rate of growth between 1989 and 1990 increased from 9 percent to 14 percent. In addition, public sector investment reversed the trend of recent years by growing by 13 percent.

The increase in private sector investment was financed by a large flow of funds from the securities market, from capital repatriation, and from the growing availability of credit at lower interest rates due in part to the conclusion of external debt negotiations. In fact, bank credit in 1990 experienced a real increase of about 34 percent, most of which was channeled to the country's private sector. By year end, approximately half of the balances of credit provided by the banking system had been channeled to the private sector, as compared with the average of 28 percent during the past decade, when most of the credit went to finance the public deficit.

Interest rates were another bright spot last year. The sharp drop in the cost of money was due in part to the conclusion of external debt negotiations in March 1990, which helped to reduce the perceived risk of holding assets in Mexican pesos. The interest rate drop was further strengthened by the renewal of the Pact for Stability and Economic Growth, and by the announcement of the privatization of commercial banks in May 1990.

Success in controlling inflation was mixed last year, when December to December prices in 1990 rose to around 30 percent after failing to 20 percent in 1989, following levels higher than 100 percent in the previous two years.

THE OUTLOOK

Signs point to a continuation of recent trends. Economic growth in Mexico for 1991 should be similar to that of 1990, sustained by a continued increase of demand and a revitalization of the productive apparatus through increased investment.

Inflation should drop, with price behavior continuing to be determined by the terms of the Pact for Stability and Economic Growth, which has helped moderate price rises through fiscal discipline and political consensus. As the economy moves forward, there will remain the longer-term problem of moving from a coordinated system of prices, wages and exchange rates, toward less regulation and greater competitiveness..

As in 1990, the promising economic outlook and the increased confidence that Mexico now enjoys should contribute to a surplus in the capital account. The renewed confidence by the international markets was made clear when Mexico returned to the voluntary capital market with the placement in 1990 of international bonds by four state corporations. Moreover, in February 1991, for the first time since the onset of the debt crisis, the government carried out a sale of international bonds, in this case for a value of 300 million German marks.

Even greater expectations of Mexico's economic performance followed the announcement of negotiations to establish a free-trade zone between Mexico, the United States and Canada. Such an agreement will not only increase Mexico's economic opportunities, but also confirm the government's commitment to maintaining an open, competitive and deregulated economy. Mexico has entered into negotiations with Chile, Colombia, Venezuela and the Central American countries to forge similar free-trade agreements.

Finally, Mexico will press on with the job of restructuring its economy. The government has announced plans to privatize commercial banks, continue selling TELMEX shares it still owns, and privatize other enterprises in the areas of insurance, fertilizer, steel, fishing and sugar.

These trade and reform efforts are expected to continue the process of laying the foundations for economic growth to transform the Mexican economy internally and reorder its relationship to the international economy.

THE NATIONAL WILDLIFE REFUGE SYSTEM MANAGEMENT AND POLICY ACT OF 1991

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. GIBBONS. Mr. Speaker, today I am introducing the National Wildlife Refuge System Management and Policy Act of 1991 to improve the management of the National Wildlife Refuge System. This is companion legislation to S. 1862.

President Theodore Roosevelt established the first national wildlife refuge nearly a century ago, launching a campaign to provide critical habitat for wildlife. Today over 460 refuges have been created, benefiting more than 700 species of birds, more than 1,000 mammals, reptiles and amphibians, and untold numbers of fish and plants.

Unfortunately, wildlife protection on the refuges is being undermined by secondary uses of the lands and waters allowed under two laws passed in the 1960's. Power boating, mining, military air exercises, and off-road vehicles have all been classified as compatible uses of many refuges. In 1989 the General Accounting Office determined that, on 60 percent of our Nation's refuges, harmful activities are threatening our wildlife resources. Subsequently, the U.S. Fish and Wildlife Service, the managing body of the refuge system, agreed with the GAO's study.

Clearly, Congress needs to outline precise purposes for the National Wildlife Refuge System, to improve its administration and management, to improve the compatibility determination process, to establish comprehensive planning for the system, and to provide for

interagency coordination in maintaining refuge resources. My legislation would accomplish this.

It just makes sense that we should bolster the National Wildlife Refuge System's ability to provide the critical habitat needed to protect our natural resources.

TRIBUTE TO MIKE AND CAROL ALESSIO

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. CUNNINGHAM. Mr. Speaker, the true rewards of life consist only of what we give away. For years, Mike and Carol Alessio of San Diego are being rewarded indeed, as they have dedicated their lives to community service behind the scenes, and given freely of their time and money to improve the quality of life in the city which is their home.

On November 14, 1991, after having been the beneficiaries of the Alessios' unselfish dedication, leaders of the San Diego Meals-on-Wheels Program will honor this wonderful couple. And I wish to pay tribute to the Alessios as well, by entering a review of their distinguished community service into the permanent RECORD of this House.

Mike Alessio is a true community leader for San Diego. He has headed or been a member of numerous civic and charitable organizations. Mr. Alessio is the president of the Boys & Girls Clubs of San Diego, and is a board member and executive officer of the Kiwanis Club of San Diego, Francis Parker Academy and the Advertising & Sales Club. He also sits on the board of directors of Pioneer Hook & Ladder, the Kiwanis Foundation, Cal-Neva Bottling Association, the Metro YMCA, the St. Vincent de Paul Center, and the Miss California Pageant.

In addition to being a reserve officer of the San Diego Police Department and a member of the Honorary Deputy Sheriff's Association, Mike Alessio is a member of the San Diego Crime Commission. He is a past member of the Street Youth Task Force, Crime Stoppers and the University Club of San Diego.

Carol Alessio's support of her community is equally dedicated and far reaching. She has devoted much of her personal time to raising funds for many worthy causes throughout the San Diego area. In 1986, she was honored as a "Woman of Dedication" in San Diego. And in 1989, Mrs. Alessio was awarded the "Damas de Distinction" by the Mexican-American Foundation.

She has served on numerous local charitable committees, including the American Cancer Board, Commission for the Status of Women, Make-A-Wish Foundation, Children's Hospital & Health Center Telethon, the Children's Home Society, Mercy Hospital Auxiliary, the San Diego Zoological Society and the San Diego Historical Society. In 1987, President Ronald Reagan recognized Mrs. Alessio's commitment to fighting illiteracy by appointing her to the National Council on Adult Education, which she served on until 1990.

Mike and Carol Alessio's outstanding record of community service may not cause them to be recognized on the street or featured in the newspaper. But their dedication to the city they love reaches all San Diegans in one way or another. And as just one person who appreciates the high standard the Alessios have established, I am honored and humbled to thank them deeply.

May the RECORD show that Mike and Carol Alessio exemplify the strong and selfless character that helps make San Diego, CA, America's finest city.

TRIBUTE TO N-VIRO ENERGY SYSTEMS ON THEIR RECEIPT OF THE PRESIDENT'S ENVIRONMENT AND CONSERVATION CHALLENGE AWARD

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Ms. KAPTUR. Mr. Speaker, N-Viro Energy Systems of Toledo, OH, has been selected as one of the recipients of the President's Environment and Conservation Challenge Awards. This recognition is long overdue to a company that is at the forefront of developing technologies that help preserve our world's fragile environment. N-Viro Energy Systems is American ingenuity at its best.

N-Viro Energy Systems has been a pioneer in the development of waste utilization technologies. The N-Viro soil technology combines by product alkaline admixtures derived from air pollution prevention processes, and mixes them with biological waste materials, such as municipal wastewater residuals. The combination of six stresses—high heat, pH, accelerated drying, ammonia, salts, and indigenous microflora—lead to the pasteurization of the residuals. Consequently, the combination also leads to better physical characteristics of wet residuals, giving it the consistency of a granular topsoil with significant nutrient, mineral, and organic aglime value.

In Toledo, OH, home of the first major N-Viro Soil installation, over 32,000 tons of product have been produced since January 1, 1991. To date, all of the material has been sold to northwest Ohio farmers as an agricultural organic aglime. Use of the product reduces farm fertilizer costs and increases soil productivity.

N-Viro soil has received international acclaim for its contribution to cost effective resource conservation and recovery efforts. On behalf of the U.S. Congress, I would like to congratulate N-Viro Systems for this very special honor. It is well deserved and should serve as an example to all small businesses across the Nation that by applying innovative solutions to complex problems, we help our environment, create jobs, and restore American competitiveness.

WORKFORCE DEVELOPMENT COUNCIL ENRICHES LIVES

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. ROEMER. Mr. Speaker, I rise today to pay tribute to several Hoosiers who, despite great odds, have distinguished themselves through their hard work and commitment in the Workforce Development Council of South Bend.

David Jenner, a LaSalle High School drop out, participated in the Youth Service Bureau's 70001 program. The program helped David gain self-esteem and taught him to control his temper.

Today, David holds a job as a prep cook and has even saved enough to buy a car. He is earning a G.E.D. and aspires to attend chef school.

I am proud that David, who has been called a role model to the other students at the Youth Service Bureau, was recently honored for outstanding progress at the Workforce Development Council alumni day. David was one of seven alumni recognized by the Workforce and by our community as being winners and true achievers.

Also rewarded for her hard work and determination was Betty Pflugshaupt of Plymouth, IN. Betty is single parent who, just 3 years ago, was supporting her small children with the salary of a part-time waitress. Today, she is an assistant manager at the largest K-Mart in the State of Indiana and has earned a business degree at Ancilla College.

Like Betty, Tera Redd of South Bend has learned to overcome great odds with the help of the Workforce Development Council. A 10th grade dropout working in a limited clerical position, Tera decided 3 years ago that she needed more education in order to make a better life for herself. With support from Job Training Services and a Pell grant, she enrolled at Indiana Vocational Technical College in secretarial science. Today, she is employed as a full-time secretary in the child support division of the probate court in South Bend. She has come a long way.

For over a decade, the Workforce Development Council has provided academic, financial, and emotional support for unemployed or underemployed workers in our Third District. Many are single heads of households. Several are enrolled in welfare and foodstamp programs. About two-thirds do not read and write at a high school level. The job training services at the Workforce Council helped these individuals develop general basic education skills and identify their career goals and interests. Students learn organization and time management skills while preparing to meet the challenges of higher level technical training.

Mr. Speaker, I applaud hard working Hoosiers like David Jenner, Betty Pflugshaupt, and Tera Redd, and believe that their commitment to the Workforce Development Council is to be commended. They have proven to themselves and to the entire community that hard work and determination does, indeed, pay off. They are now on their way to building successful, rewarding careers.

LAWRENCE SPEISER

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. EDWARDS of California. Mr. Speaker, I learned only a few days ago of the death on August 30, of America's great civil libertarian and my dear friend of many years. I was out of the country on that date and somehow the sad news did not reach me until today.

The first telephone call I made in January 1963 after being sworn in as a Member of Congress was to Larry Speiser. I had known about him before I came to Washington as the talented and highly regarded executive director of the Northern California Civil Liberties Union in San Francisco. In this important office he had led the efforts for all Californians in defending the constitutional and civil rights of individuals. Larry then moved on to become the executive director of the national office of the ACLU.

My telephone call to Larry in January 1963, resulted in a luncheon meeting and a friendship and collaboration that continued for more than a quarter century. In the early 1960's the House Committee on Un-American Activities was at its zenith of power, constantly in the news and on TV, and deeply offensive to Americans who valued due process and the constitutionally guaranteed rights of freedom of speech and association. Larry helped me enormously in my personal resistance to HUAC, and 10 years or so later, with the help of Bob Drinan and others we witnessed its demise with considerable satisfaction.

Larry's other major achievements as the ACLU leader here in Washington brought nationwide recognition and praise for Larry and his organization. He won the law suit that outlawed the poll tax in Virginia. In another suit he abolished compulsory religious service attendance at U.S. military academies. Before the U.S. Supreme Court he argued successfully that Maryland officials need not take a religious oath. He ended the California practice of requiring veterans to take a loyalty oath as a condition to receiving certain benefits.

Larry Speiser was always generous with his time in supporting local and national bar associations. He accepted a place on the D.C. Board of Governors. He served ably as the chairman of the American Bar Association committee on the rights of the accused. He also served with skill and enthusiasm on the Senate Committee on Juvenile Justice. All in all, Larry's life was a consistent and courageous succession of efforts to enforce the Constitution's guarantee of individual rights and freedoms, and the extraordinary successes he had bear witness to his heroism.

I spent many hours and evenings as a personal friend of Larry and Lane Speiser. I have happy memories of these times. They strengthened my faith in our Constitution and in the American dream. I join many hundreds of people who feel an enormous sense of loss and who send loving sympathies to Lane and the children, Amy, Terry, and Matt.

CAPT. TRACEY BORUM: A MODEL OF NEW MILITARY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 31, 1991

Mr. GORDON. Mr. Speaker, the makeup and mission of our Nation's military has been shaped through the years to meet the challenges of a changing world.

Like society, our Armed Forces have become more integrated with men and women of all races working hand-in-hand toward the common goal of a strong, efficient national defense. As the banner of freedom spreads throughout the world, our troops have increasingly become providers of humanitarian aid, wielding ploughshares as adeptly as swords.

U.S. Army Capt. Tracey Borum, a graduate of Middle Tennessee State University and a resident of Nashville, is a perfect example of these positive changes.

During Operation Desert Storm/Desert Shield in the Persian Gulf, Captain Borum was sent to the United Arab Emirates to help the small nation of 500,000 people improve its ability to deter future military aggressors.

Hers was no routine training assignment because her trainees were the first group of women ever to enlist in the UAE military. The group was changing decades of tradition in which women had lived behind veils as second-class citizens to men.

By combining her outstanding personal leadership and technical skills, Captain Borum successfully overcome the significant cultural barriers to train the Arab women to use assault rifles, rocket-propelled grenades, multipurpose machine guns, hand grenades, and other weapons.

Captain Borum served as an inspiration to her UAE counterparts, helping them realize their own abilities. Her work encouraged the women's national pride while at the same time making their nation's military more self-sufficient against future Saddam Husseins.

With Captain Borum's help, the UAE women now have the skills and confidence to train other women for noncombat specialist roles.

Tracey Borum, who is now assigned to the 701st Military Police Battalion at Fort McClellan, AL, is a shining example of our Nation's new military—proud and strong, able to respond to every challenge in both peace and war.