

SENATE—Wednesday, June 24, 1992*(Legislative day of Tuesday, June 16, 1992)*

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Today's prayer will be offered by guest chaplain, the Reverend Delvin D. Elwell, pastor of the First Baptist Church, Hinton, WV.

Dr. Elwell.

PRAYER

The guest chaplain, the Reverend Delvin D. Elwell, the First Baptist Church, Hinton, WV, offered the following prayer:

Our Father, we are grateful for the privilege of living in this great land and for those democratic principles which have made our country great.

We acknowledge that You are a sovereign God and that we in the affairs of life should seek Divine counsel.

May we be reminded that the God who is aware of the sparrow that falls is surely concerned about the legislative procedures that transpire in this great building.

Grant to these Senators wisdom and courage to deal with the complex problems before them and to make appropriate decisions.

In His name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE JOURNAL—LEADERSHIP TIME

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the two leaders reserved for their use later in the day?

The PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, this morning there will be a period for morning business to extend until 10 a.m., during which time Senators will be permitted to speak for up to 5 minutes each.

At 10 a.m. the Senate will resume consideration of the pending Government-sponsored enterprises bill, with an amendment by Senator DODD on the pending business. It is my hope that we

can complete action on that amendment during the day today and any other amendments, if any, to be offered to the committee substitute, and then to proceed in accordance with the agreement reached governing further amendments and disposition of the bill.

Senators are on notice that there may be rollcall votes during the day today.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. 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. DOLE. Mr. President, was leader time reserved?

The PRESIDING OFFICER. Leader time was reserved.

RAIL STRIKE

Mr. DOLE. Mr. President, it is no surprise that the first domino has now fallen and that we are now facing a national shutdown of the Nation's rail system.

My understanding of the situation—which is constantly changing—is as follows at this moment:

Just after midnight last night, the International Association of Machinists struck CSX Transportation, one of the largest freight railroads on the east coast.

As we all know, a strike against one railroad affects all of the other carriers. Rail lines interconnect, are shared by the carriers, and safety must be ensured.

The American Railroads Association has said that major freight railroads began clearing their lines early this morning and that by early afternoon, Conrail, Union Pacific, Chicago & Northwestern, Norfolk Southern, Burlington Northern, Santa Fe, and Southern Pacific will all have ceased operations; that is expected as of this afternoon.

I will give an example of how it is affecting our States. Those who think it is not going to affect their States are wrong. There are a lot of innocent people on the sidelines who are not part of management or labor. I will give one example: Beachner Grain in St. Paul, KS, which operates grain elevators in 10 southeast Kansas counties, has 6 out of 15 elevators shutdown this morning

because of the strike. This situation is being repeated all over my State, and I suspect every other Member's State in one form or another. It will only get worse as time marches on. I had hoped that by offering my amendment yesterday urging the Congress to take action to forestall a rail strike because of its devastating impact on the country that we could have avoided what has now happened.

I am pleased that the amendment was adopted, but I am surprised that 39 Senators voted against it. I hope that they do not support the shutdown that is occurring and the havoc this situation is starting to wreak on the economy. There are millions of American workers who depend on rail service as their only way to get to their jobs or whose jobs depend on products and supplies transported by rail.

I am told that if the rail shutdown continues, there will be at least 180,000 layoffs within 3 days. For this Senator, that is unacceptable.

This morning, the distinguished chairman of the House Energy and Commerce Committee is holding hearings and I understand that Secretary Card and union and industry representatives will be testifying. I commend the efforts of Chairman DINGELL and the administration and I hope that these efforts will lead to a quick resolution. For those unions and rail negotiators who have opted not to strike in hopes of reaching a settlement shortly, I commend their efforts as well.

And I cannot emphasize enough that it is important that we all work together to quickly resolve this situation. We did it last year when we were dealing with contract disputes involving about 95 percent of the rail work force. Ninety-five percent of the rail work force we dealt with last year.

There is no reason Congress cannot repeat last year's action and deal with the other 5 percent quickly and without any bias toward either management or the railworkers.

It seems to me we have an obligation and the American people are counting on us. It seems to me we need to address the problem and to deal with it very quickly. If everything else fails, then I think we need to serve notice on our colleagues that there will be amendments offered at the earliest opportunity. It is my understanding that Senators KENNEDY and HATCH may be holding hearings sometime today, and we will then be able to determine whether or not additional action is necessary on the floor.

* This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

But it is already going to cost millions and millions and millions of dollars; at a time when the economy is starting to recover just a bit, now we are going to put it back again. So I hope we can have a resolution very quickly. It ought to be bipartisan, non-partisan, no politics involved. But it better be immediate.

The American people are fed up in many ways with the Congress of the United States, and this is our responsibility, not President Bush's. He cannot do a thing. He has done all he can do. He did that in April of this year. So it is now up to Congress. If they cannot reach some settlement, it is up to us to extend a cooling-off period, impose some settlement, or many other options. But it is up to Congress, Congress controlled by the majority party, the Democrat Party. It is up to Congress—Congress—not President Bush.

I do not want to see any of my colleagues on the other side pointing a finger at President Bush next week if this strike continues and starts costing \$50, \$60, \$70, \$100 million a day. It is time for action now. It was time for action yesterday. We did not get it yesterday. Let us see if we cannot recoup our losses and try to stem the losses across the country and do something before we leave here today.

Mr. President, I reserve the remainder of my time.

REGARDING THE RAIL STRIKE

Mr. GRASSLEY. Mr. President, I rise today to address my colleagues concerning the current rail strike and impending rail strikes.

An extended rail shutdown could be extremely costly to Iowa business and industry. According to the Iowa Department of Transportation, the loss could run into the millions of dollars every day. A walkout would directly affect five major rail freight carriers in Iowa.

My position concerning potential congressional involvement in these types of labor-management disputes has been consistent. These questions are best decided in the give-and-take of labor-management negotiations. However, should it become a question of national urgency, I would be prepared to support congressional intervention.

And we are faced with a potential national emergency.

In many ways, this is simply a question of jobs. As our Nation's economy is finally getting on its feet after the recession, this would be a horrible blow. Many, many Iowans could be thrown out of work.

I simply cannot stand by and let this occur.

I do not maintain that management is right in this dispute. I do not maintain that labor is right.

I do maintain, however, that many Iowans would suffer should a strike

occur. It is for this reason that I urge all of my colleagues in the Senate and the House to move to resolve this matter as soon as possible. This action should take place today.

Mr. COHEN addressed the Chair.
The PRESIDING OFFICER. The Chair recognizes the Senator from Maine [Mr. COHEN].

COUNTERING INDUSTRIAL ESPIONAGE IN THE POST-COLD-WAR ERA

Mr. COHEN. Mr. President, when Russian President Boris Yeltsin addressed a joint session of Congress last week, embracing the principles of democracy and free markets, the final icecaps of the cold war melted, releasing in all of us a sense of joy and exhilaration.

But even as we welcome these dramatic improvements, let us not be lulled into complacency. Our bipolar world has fragmented into a kaleidoscope of parochial interests, alliances, and threats that can change rapidly and unpredictably. Our cold war scope—formerly fixed on one target—is not going to serve us in today's complex geopolitical landscape.

In the economic sphere especially, the competition is fierce and the challenges severe. Our competitors—even our closest allies—do not always play by the rules. Indicative of this is the alarming rate at which foreign governments are spying on U.S. businesses and economic interests. According to the Director of Central Intelligence, Bob Gates, at least 20 nations from Europe, Asia, the Middle East, and Latin America are involved in intelligence activities that are detrimental to our economic interests.

Some of the specific cases are shocking. According to a recent New York Times article by Peter Schweizer, "between 1987 and 1989, French intelligence planted moles in several U.S. companies, including IBM. In the fall of 1991, a French intelligence team attempted to steal 'stealth' technology from Lockheed." Other accounts report that French intelligence units conduct 10 to 15 break-ins every day at large hotels in Paris to copy documents that belong to businessmen, journalists, and diplomats. According to other accounts, the French have been hiding listening devices on Air France flights in order to pick up useful economic information from business travelers.

The French are not alone among our friends who spy on us. Two months ago, rocket scientist Ronald Hoffman began serving a prison sentence for selling strategic defense initiative and rocketry technology for more than \$700,000 to four Japanese companies. According to Schweizer, these four companies have vowed to capture 20 percent of the aerospace market by the year 2000.

And in 1991, IBM lost several important European bids after company offi-

cial discovered that German intelligence had been eavesdropping on its telecommunications and passing stolen information on to German companies.

These crimes by our friends not only betray our friendship; they cost America jobs. According to IBM Vice President Marshall Phelps, IBM has suffered losses in the billions as a result of espionage being carried out against the company. Foreign intelligence agents are draining our country of its ideas like sap from a tree. For a country that professes to be a fountainhead of scientific knowledge, nothing could be more damaging.

Only recently has our Government begun to look beyond its cold war blinders to respond to this growing threat. We have taken steps to improve our defenses against economic espionage, and the Federal Bureau of Investigation and Central Intelligence Agency deserve credit for stepping up their efforts in this area.

But in many respects we still seem to look out at the world through a diplomatic greenhouse, afraid to lodge criticism at our allies for fear of a return volley that might shatter one of the delicate panes.

There is something to be said for diplomatic cordiality, but we must never be afraid to take a firm stand when our cause is just. We did not win the cold war by appeasing a bankrupt ideology, and we will not win on the economic battlefield by ignoring friends engaging in theft. We must not let our reluctance to offend outweigh our responsibility to defend our Nation's vital interests.

I hope my colleagues will join me in examining this issue in more detail in the months ahead. While we can improve our defenses, it is clear that foreign countries will not be deterred from engaging in economic espionage as long as the rewards outweigh the punishment. It is my hope that the Intelligence Committee and other committees will hold hearings, consult Government and business leaders, and introduce legislation that will enhance our tools to attack this problem head on so that we may protect our Nation's greatest resource—the ingenuity and intellectual resources of the American people.

Mr. President, I ask unanimous consent that I be allowed to insert two articles in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 23, 1992]

OUR THIEVING ALLIES (By Peter Schweizer)

McLean, VA—If most Americans thought the end of the cold war meant an end to spying, they should think again. Industrial espionage against the U.S. by its friends and allies is on the rise.

John Davitt, the former director of Internal Security at the Justice Department, says

our allies are increasingly using spy methods "every bit as sophisticated as those of the K.G.B. in order to gain access to American high-tech secrets."

Among the countries most often cited by U.S. intelligence agencies as seeking technological and financial secrets are France, Germany, Japan, South Korea and Israel.

Pierre Marion, the former director of French intelligence, told me this year that in 1981—at the request of President François Mitterrand—he established a branch to spy on U.S. high-technology companies. The branch still exists.

In April, Ronald Hoffman, a rocket scientist in California, was sent to prison for selling Strategic Defense Initiative and rocketry technology to four Japanese companies for more than \$700,000 between 1986 and 1990. The four companies, Mitsubishi, Nissan, Ishiawaji-Harima and Toshiba, have pledged to capture 20 percent of the aerospace market by the year 2000.

During the summer of 1991, I.B.M. accused the German intelligence service of eavesdropping on its telecommunications and passing stolen information to German companies. I.B.M. lost several important bids in Europe around this time, possibly because of inside knowledge obtained by its German competitors.

Last year, an Illinois-based aeronautics company, Recon Optical, accused the Israeli Air Force of espionage. An independent arbitration board in New York sided with Recon, and the Israeli Government quietly agreed to pay the company for damages.

Between 1987 and 1989, French intelligence planted moles in several U.S. companies, including I.B.M. In the fall of 1991, a French intelligence team attempted to steal "stealth" technology from Lockheed. Only the Federal Bureau of Investigation's persistence ended these operations.

U.S. trade negotiators complain that our trading partners are increasingly targeting them for "friendly" espionage in the hopes of getting a peek at the U.S. negotiating position. One former negotiator claims he repeatedly found electronic bugs in his room whenever he visited Tokyo.

During the cold war, the U.S. was reluctant to discuss friendly spies. "We tended to look the other way," says Herb Meyer, a former special assistant to the Director of Central Intelligence, "they were taking advantage of us while we felt we had a larger interest." But that attitude is changing.

The F.B.I.'s cold war "country criteria list" of enemy countries whose personnel in the U.S. needed close scrutiny was recently replaced by the "New Security Threat List" that encourages bureau agents to go after any intelligence agent, foe or friend, who conducts espionage operations in the U.S. or against U.S. interests overseas.

Although the C.I.A. Director, Robert Gates, has pledged that the U.S. "will not get into the industrial espionage business," his Science and Technology Advisory Panel is quietly discussing the topic. However, Federal economic espionage is unlikely to happen. Because American business culture is dead set against governmental industrial planning, the C.I.A. would not be free to pass any secrets it might obtain to one American company at the expense of its domestic competitors.

The most sensible recourse for the U.S. is to make economic espionage costly to its practitioners. Currently, they face no legal penalties. If a foreign company or country gets caught, it should face stiff, mandatory trade sanctions. As political allies are in-

creasingly viewed as economic rivals, the U.S. must come to grips with this facet of the post-cold-war world.

[From Time magazine, May 28, 1990]

WHEN "FRIENDS" BECOME MOLES

(By Jay Peterzell)

The dangers of Soviet military espionage may be receding, but U.S. security officials are awakening to a spy threat from a different quarter: America's allies. According to U.S. officials, several foreign governments are employing their spy networks to purloin business secrets and give them to private industry. In a case brought to light last week in the French newsmagazine L'Express, U.S. agents found evidence late last year that the French intelligence service Direction Générale de la Sécurité Extérieure had recruited spies in the European branches of IBM, Texas Instruments and other U.S. electronics companies. American officials say DGSE was passing along secrets involving research and marketing to Compagnie des Machines Bull, the struggling computer maker largely owned by the French government.

A joint team of FBI and CIA officials journeyed to Paris to inform the French government that the scheme had been uncovered, and the Gallic moles were promptly fired from the U.S. companies. Bull, which is competing desperately with American rivals for market share in Europe, denies any relationship with DGSE. Last year the company made a legitimate acquisition of U.S. technology when it agreed to purchase Zenith's computer division for \$496 million.

U.S. officials say the spy ring was part of a major espionage program run against foreign business executives since the late 1960s by Service 7 of French intelligence. Besides infiltrating American companies, the operation routinely intercepts electronic messages sent by foreign firms. "There's no question that they have been spying on IBM's transatlantic communications and handing the information to Bull for years," charges Robert Courtney, a former IBM security official who advises companies on counterespionage techniques.

Service 7 also conducts an estimated ten to 15 break-ins every day at large hotels in Paris to copy documents left in the rooms by visiting businessmen, journalists and diplomats. These "bag operations" first came to the attention of the U.S. Government in the mid-1980s. One U.S. executive told officials about a trip to Paris during which he had made handwritten notes in the margin of one of his memos. While negotiating a deal with a French businessman, he noticed that the Frenchman had a photocopy of the memo, handwritten notes and all. Asked how he got it, the Parisian sheepishly admitted that a French government official had given it to him. Because of such incidents, U.S. officials began a quiet effort to warn American companies about the need to take special precautions when operating in France.

While France can be blatant, it is by no means unique. "A number of nations friendly to the U.S. have engaged in industrial espionage, collecting information with their intelligence services to support private industry," says Oliver Revell, the FBI's associate deputy director in charge of investigations. Those countries include Britain, West Germany, the Netherlands and Belgium, according to Courtney. The consultant has developed a few tricks for gauging whether foreign spies are eavesdropping on his corporate clients. In one scheme, he instructs his client to transmit a fake cable informing its

European office of a price increase. If the client's competitor in that country boosts its price to the level mentioned in the cable, the jig is up. "You just spoof 'em," Courtney says.

Most U.S. corporations could protect their sensitive communications simply by sending them in code. But many companies are reluctant to do this, even though the cost and inconvenience might be minor. One reason may be that the effects of spying are largely invisible. All the company sees is that it has failed to win a contract or two. Meanwhile, its competitor may have clandestinely learned all about its marketing plans, its negotiating strategies and its manufacturing secrets. "American businesses are not really up against some little competitor," observes Noel Machette, a former National Security Agency official who heads a private security firm near Washington. "They're up against the whole intelligence apparatus of other countries. And they're getting their clocks cleaned."

As U.S. national-security planners increasingly focus on American competitiveness, many of them fear that U.S. corporations are operating at a severe disadvantage. America's tradition of keeping Government and business separate tends to minimize opportunities for the kind of intelligence sharing that often occurs in Europe. "I made a big effort to get the intelligence community to support U.S. businesses," recalls Admiral Stansfield Turner, who headed the CIA in the late 1970s. "I was told by CIA professionals that this was not national security." Moreover, it would be hard for the Government to provide information to one U.S. firm and not to another. Yet if sensitive intelligence is shared too widely, it cannot be protected.

One thing the U.S. Government can do is make sure business leaders understand the threat. When the late Walter Deeley was a deputy director at NSA in the early 1980s, he began a hush-hush program in which executives were given clearances and told when foreign intelligence agencies were stealing their secrets. "He considered it a real crusade," a former intelligence official says. "If American business leaders could see some of these intelligence reports, I think they would go bananas and put a lot more effort into protecting their communications."

"It may not be possible to level the playing field [with foreign companies] by sharing intelligence directly" with their U.S. rivals, observes deputy White House science adviser Michelle Van Cleave. "But it should be possible to button up our secrets." That argues for much more use of secret-keeping techniques and far less naiveté on the part of American business as it enters the spy-vs.-spy era of the 1990s.

Mr. COHEN. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

NATIONAL WIRELESS TELECOMMUNICATIONS MONTH

Mr. BURNS. Mr. President, June has been designated "National Wireless

Telecommunications Month" by the cellular industry, in recognition of the milestone of cellular service reaching every market in America. This accomplishment comes just 8½ years after the first system was turned on, and I would like to take a moment to reflect on what a remarkable achievement this is.

Starting with the activation of the first system in Chicago in October 1983, cellular has grown into a multibillion-dollar service industry in slightly more than 3,000 days. The last of 734 markets in this country saw a system turn on a few days ago, meaning the industry was turning on a market every 4 days.

Never before has such an advanced telecommunications service been rolled out to all of America, not just the big city.

This accomplishment becomes even more remarkable if one considers the long and sorry history of legal and regulatory barriers and obstacles which the cellular industry faced in providing new telecommunications service to the American public. On several occasions, the FCC received thousands of applications for individual markets, delaying the process even more.

Combine these events with the entry of speculators, whose only interest in participating in the cellular lottery was the acquisition of a license they could immediately sell to the highest bidder, the fact this country has nationwide service in so short a period is all the more remarkable. Indeed, I think astonishing is an even better word; just imagine how quickly this industry could have moved with a clear regulatory and legal path. We should not forget this last point when considering the great potential of the next generation of wireless telecommunications services—personal communications services [PCS].

For this reason, Mr. President, I believe it is appropriate that the cellular industry be congratulated for its perseverance and commitment on the occasion of this month's special observance.

THE AUDIO HOME RECORDING ACT

Mr. BURNS. Mr. President, I rise today to express my strong support, as an original cosponsor, for legislation passed last week, S. 1623, the Audio Home Recording Act. This legislation represents a historic compromise between the music and consumer electronics industries and demonstrates private sector ingenuity and the progress that can be made when private sector interests work together to reach a solution.

With enactment of this legislation, everyone in the marketplace will benefit. First, consumers will finally have access to some of the most exciting and innovative technology that the marketplace has to offer—and the music to go along with it.

This bill will also provide a much-needed shot in the arm for America's economy. Consumer electronics companies can get back to the business of making and marketing digital audio equipment and retail stores can now stock the shelves with new digital audio recorders. And songwriters, music publishers, and record companies can continue to produce the world's most popular music, American music, on new digital formats.

Very simply, Mr. President, this bill will create jobs and boost our economy. Several record companies have already announced major business expansions in order to manufacture and produce music on the new digital formats. And, Tandy Corp., the American licensee for digital compact cassette, will be producing this new technology and digital blank medium here in the United States. This translates into more jobs, an improved economy, and a favorable impact on America's balance of trade.

I thank my colleagues for their support of this important legislation and, in particular, applaud the leadership of Senator DECONCINI.

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt run up by the U.S. Congress stood at \$3,935,961,408,493.11, as of the close of business on Monday, June 22, 1992.

On a per capita basis, every man, woman, and child owes \$15,323.43—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to \$1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab, to pay the interest alone, comes to \$4,511.40 per year.

WE'RE PROUD OF THE BLAZERS

Mr. HATFIELD. Mr. President, a few weeks ago I stood in this Chamber and proclaimed my sincere belief that the Portland Trail Blazers would be crowned champions of the National Basketball Association. Alas, as the Nation knows, this did not come to pass. Portland fell to the Chicago Bulls in an exciting six-game series.

It is clear to anyone who watched the series that the Bulls were a superior team to the Blazers; or at least they were for the six games this season that counted the most.

I have had an opportunity to think about the outcome of the series in recent days and have tried to draw conclusions about why the Blazers were not successful against the Bulls. Granted, the Bulls have Michael Jordan, the greatest player in the world; granted, the Bulls have Scottie Pippen, another Olympian; granted, John Paxson's shooting ability certainly was enhanced by the fact that his older brother, Jim, once played for the Blazers; granted, they played great team defense and shot much better than the Blazers. But there must be other reasons why the Bulls were successful.

Mr. President, the world has not seen the last of great basketball in Portland this year. In addition to the NBA draft being held there on June 24, the Basketball Tournament of the Americas will take place in Portland June 27 to July 5. That will be the debut of the U.S. Olympic team, and there is certain to be much excitement during that tournament. For 2 weeks, Portland will once again become the mecca of the basketball world.

The Portland Trail Blazers had a great season; the loss of the championship should not be seen as failure, only disappointment. After all, 25 other NBA teams wished they could have taken Portland's place and played for the NBA championship. However, it is inevitable that there can be only one champion, and the Bulls retained that title. They were and are a better basketball team.

Which brings me, Mr. President, back to consideration of why the Bulls won. It occurs to me that there must be an Oregon-connected reason for their success. Was it sheer talent alone, I think not. If it is not talent alone, it must be something else; the shoes; it must be the shoes. That's it, Mr. President, the Bulls best players, Jordan and Pippen, wear shoes from an Oregon-based company. I knew there had to be an Oregon connection there somewhere.

Mr. President, I congratulate the Chicago Bulls on being the best basketball team in America, but I also congratulate the Portland Trailblazers and all of their many fans on a wonderful year. It was a great year.

INDONESIAN ATROCITIES CONTINUE IN EAST TIMOR

Mr. PELL. Mr. President, this afternoon the Foreign Relations Committee's Subcommittee on East Asian and Pacific Affairs will meet to consider the nomination of Ambassador Robert L. Barry to be Ambassador to Indonesia.

Ambassador Barry is a distinguished Foreign Service Officer with a strong record in European affairs. Formerly, he served as Special Adviser for East European Assistance to the Deputy Secretary of State. This will be his first posting to Asia, and Indonesia is a difficult posting.

I hope Ambassador Barry will take with him an understanding of the depth of American outrage about Indonesia's repression of the East Timorese.

Since the massacre last November by Indonesian military forces of at least 75, but probably significantly more, East Timorese who were peacefully demonstrating in Dili, East Timor, relations between the United States and Indonesia have soured. They will continue to worsen in my view as long as Indonesia refuses to recognize the legitimate rights of the East Timorese people.

Last April I was in Indonesia. I asked President Suharto if I could go to East Timor. He refused my request as he has refused the request of international human rights groups and foreign journalists to visit that occupied island.

In the meantime, the Indonesian Government has engaged in an effort to cover up the extent of the massacre while continuing to repress the East Timorese people. I would like to enter into the RECORD a report issued by Asia Watch yesterday entitled "East Timor: The Courts-Martial" that clearly outlines the extent of the Indonesian Government's effort to prevent the world from observing their tyranny.

After the November massacre in which scores died and disappeared, the Indonesian Government arrested the demonstrators. Thirteen are being tried in Dili, five in Indonesia's capital of Jakarta. Those shot at the shootees were arrested on charges of subversion and "inciting hatred." Sentences in many of these cases have already been handed down and they represent in my view an egregious miscarriage of justice: Two East Timorese involved in a demonstration in Jakarta following the November 12 massacre were sentenced to 9 and 10 years in prison. The other three received prison terms from 6 to 30 months.

Three of the thirteen East Timorese jailed in Dili have been sentenced. One was given 6 years, 10 months. Another was sentenced to 5 years and 8 months, and a third was imprisoned yesterday for 15 years.

These were not the people killing. These were the innocents being killed.

What did Indonesia do about the shooters? Nine soldiers and one police officer were tried. The nine were not charged with murder but accused of disobeying orders. The one police officer was charged with assault.

What were their sentences?

They were given from 8 to 18 months.

The United States intends to give Indonesia over \$59 million in economic and military assistance in fiscal year 1992. Having just observed the quality of Indonesian justice, I believe we need to review seriously the direction of our aid program.

Recently, Senator WALLOP, Senator LEAHY, Senator DURENBERGER, Senator

KERRY, and myself wrote Secretary Baker requesting that the United States make human rights a strong condition of international aid to Indonesia when international donors meet in July under World Bank auspices. I have also written to the U.N. Secretary-general requesting his direct intervention in this conflict to aid its resolution.

I will continue to do all that I can to ensure that this issue is not neglected despite the Indonesian Government's best efforts to keep it obscured from international attention. I trust that Ambassador Barry will convey these strong sentiments to the Indonesian Government.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From Asia Watch, June 23, 1992]

EAST TIMOR: THE COURTS-MARTIAL

Between May 29 and June 6, 1992, nine soldiers and one policeman were tried by military or police courts in Bali for their role in the massacre in East Timor on November 12, 1991 when the Indonesian army opened fire on a crowd of unarmed demonstrators. The trials were open to diplomatic observers and the press; the sentences were light, ranging from eight to eighteen months. The courts-martial do not portray the Indonesian army in a favorable light, but neither do they pierce the secrecy surrounding how the shooting started or what happened to the bodies of those killed. The glimpse they offer into military behavior on November 12 is a carefully managed one, which serves to strengthen the "official version" of events, but even the Indonesian press is openly skeptical of that version. As far as the Indonesian government is concerned, the case against the military is now closed. Asia Watch calls on the international community to continue to press the Indonesian government for a full accounting of military actions before, during and after the demonstration.

BACKGROUND

On November 12, Indonesian troops turned their guns on thousands of East Timorese who had marched from a church on the waterfront of Dili, the capital, to a cemetery in the Santa Cruz area of the city where a supporter of East Timorese independence, Sebastiao Gomes, had been buried two weeks earlier.¹ The Indonesian government initially maintained that only 19 had died; a government commission later raised the death toll to "about 50"; 90 were reported missing; and the number of wounded "exceeded 91."² Unofficial estimates put the death toll well over 100, with many of the victims dying of beatings or other abuse suffered after the shooting. To this day, no one knows what happened to the missing, or to the bodies of those killed; only 19 graves were ever officially found.

The courts-martial in Bali of soldiers implicated in the massacre appear to represent the final chapter in the Indonesian government's moves to account for the killings, the last in a series of measures designed to defuse international outrage, but which also strengthened President Suharto's image as a master manipulator and exposed rifts in the Indonesian army. None of the steps taken by

the Government appear to have been aimed primarily at uncovering the truth.

The first major step was President Suharto's appointment of a National Commission of Inquiry (Komisi Penyelidik Nasional or KPN) on November 18. Members of the commission were hampered by military obstructionism, the fear of witnesses to come forward to testify and the team's own lack of independence. On December 26, they produced a short "advance report" which blamed the victims but criticized army excesses. The report noted three different versions of how the troops opened fire: troops in anti-riot formation aimed directly into the crowd; shooting started in self-defense after fighting erupted; and the shooting came from unorganized security forces who were neither in proper formation nor proper uniform. It made no attempt to assess the relative validity of the three versions.³

The second step was the highly publicized sacking of two senior military commanders on December 28, Major General Sintong Panjaitan, commander of the KODAM IX/Udayana regional military command based in Bali, and Brigadier General Rudolf Warouw, commander of operations (Pangkolakops) in East Timor.

The third step was President Suharto's instruction to the Chief of Staff of the Indonesian Army, Edy Sudradjat, to appoint a Council of Military Honor (*Deewan Kehormatan Militer*) to investigate military behavior on November 12 and recommend appropriate disciplinary action. The Council was in operation from January 2 to February 20, 1992 and on February 27, it issued a press release, announcing that six officers had been disciplined, including three dismissed from the army altogether, two removed from their jobs in the army bureaucracy but kept on active duty, and one temporarily reassigned but kept on active duty.

Although the names of the officers were never made public, the March 14 issue of *Editor* reported that the three "honorably discharged" were probably General Warouw, Colonel Gatot Purwanto, assistant to Warouw for intelligence, and the Sector C commander responsible for Dili, Colonel Binsar Aruan. The officer temporarily removed from his position may be Sintong Panjaitan, now at Harvard University to study business.

The Council release said that eight others, including our officers, would be prosecuted, according to the press release, and five other officers would be further investigated.⁴ In fact, the entire Operations Command headed by Warouw was purged, with every single one of the six assistants transferred out of East Timor after the massacre. The commanders of the district-level KODIM and the sub-regional KOREM were also moved out.⁵

The government's failure to move forward with the prosecutions promised in the Council's press release became a new focus of international criticism, particularly as dozens of East Timorese independence supporters were behind bars in Dili and Jakarta, some of them facing subversion charges, for participating in non-violent demonstrations. Most had no access to friends, family or lawyers.⁶

A military spokesman promised in early May that the courts-martial would take place before Indonesia's quinquennial exercise in heavily-controlled parliamentary elections, scheduled for June 9. When they finally began on May 29, the campaign domestically and events in Yugoslavia and Thailand internationally diverted public attention. The verdicts came as something of an

Footnotes at end of article

anticlimax, in part because the country was otherwise occupied, but also because all those tried were junior, and their testimony contained few revelations.

THE COURTS-MARTIAL

The nine soldiers and one police officer prosecuted can be divided into three groups: five enlisted men who were all based at the KODIM and who allegedly on their own fired on demonstrators; officers associated with Battalion 303 whom the KODIM commander sent to the demonstration and who failed to prevent their men from firing; and two men accused of assaulting wounded demonstrators. The nine soldiers were accused of violating Article 103 of the military code by disobeying or exceeding orders; the police corporal was charged with assault.

All five of the enlisted men tried had been stationed at KODIM 1627. Three of them, First Sergeants Udin Syukur and Aloysius Rani and Master Sergeant Petrus Saul Mada, all testified at their trials that they had been ordered by the KODIM commander, Lieutenant Colonel Wahyu Hidayat, not to leave the KODIM as long as the demonstration was underway, but they disobeyed after an Indonesian officer, Major Gerhan Lantara, and an East Timorese soldier, Private Dominggus, were brought to the KODIM, bleeding from their wounds after having been stabbed by demonstrators. (The stabbing incident occurred early on in what was otherwise a non-violent march.)

Udin took a G-3 rifle; when he returned to the KODIM, it was missing two bullets. He said he fired the rifle after one of the demonstrators threatened him with a knife. Sergeant Rani said he grabbed a weapon and went to the Santa Cruz cemetery by taxi, where he fired on a demonstrator carrying a Fretilin flag. He told the court he had been overcome with emotion after seeing the two wounded soldiers at the KODIM. All three sergeants said they rushed out of the KODIM so quickly that they did not have time to put on their uniforms and arrived at the cemetery in a state of partial dress.

Privates Mateus Maya and Afonso de Jesus were East Timorese stationed at the KODIM who were assigned to drive Major Gerhan to the hospital. They were never at the Santa Cruz cemetery but allegedly fired on demonstrators en route to the hospital.

The five enlisted men were tried in Rindam (Resimen Induk Daerah Militer) Udayana in Tabanan, Bali (see Appendix 1).

The second group consists of three second lieutenants: Sugiman Mursanib (spelled Mursanip in the court documents); John Harlan Aritonang and Handrianus Eddy Sunaryo. Mursanib, who joined the army in 1965, was the head of the social and political section of the KODIM (Kasi Sospol), and under normal circumstances, reported directly to Hidayat, the KODIM commander. The night before the massacre, he had been out all night on "sweeps." He was back at the KODIM in the morning, without having slept, and it was only some 10 minutes after the demonstrators had passed by the KODIM headquarters that Colonel Hidayat ordered him to lead a three-platoon force company totalling 72 men in all from the KODIM to follow and disperse the marchers.⁸ Aritonang, who previously had been decorated for capturing a Fretilin leader, Maukalo, and Sunaryo led platoons II and III respectively from Battalion 303; the third platoon was from Brimob 5486.

Without putting on his uniform, Mursanib rushed out; one fault that was cited in his trial was that while the Brimob unit, presumably with some training in riot control,

was at the front when the force left the KODIM, Mursanib moved the two army platoons to the front near the cemetery.

It was at the cemetery that Mursanib gave the orders, supposedly to Lieutenant Aritonang, to advance. He in turn was receiving orders via radio from Colonel Binsar Aruan, the now-sacked commander for the Dili area. Both Aritonang and Sunaryo gave orders to their troops to advance, and when they heard firing from other forces at the cemetery, they opened fire too. Aritonang testified that he tried to prevent his men from firing but to no avail. It was later found that six men from his platoon had fired 60 bullets. Sunaryo was faulted for not having recognized that the order from Mursanib was only meant for Aritonang's platoon. Five of his men also opened fire and shot 33 bullets.⁹ Aritonang, according to one press account, was cited for failing to give the orders to his troops to get in formation.¹⁰ He was also charged with failing to control his subordinates, as were Sunaryo and Mursanib. The Brimob platoon leader, First Lieutenant (Police) Rudolf A. Rodjo, was not charged.

All three officers in the second group were tried by the Military Court III-4 in Denpasar, Bali.

Two men make up the last group, Lieutenant Yohanes Alexander Penpada, 48, the deputy intelligence officer for KOREM 164, was sentenced to eight months for disobeying orders. He had been assigned to report on how the demonstration developed, but after he learned about the stabbing of Gerhan Lantara, his superior, he testified that he got a ride back to the KOREM and went from there to his home. He picked up his pistol and went back to the cemetery where injured demonstrators were still lying. He said he slapped one on the face, but he denied firing the pistol. Penpada was sentenced to eight months by Military Court III-4.

Police Corporal Marthin Alau, 35, the man who slashed the ear of a demonstrator, has been named in an eyewitness report as having deliberately killed two other demonstrators. Those killings did not come up at his trial. Alau told the court members of his family had been killed by Fretilin. He was sentenced to 17 months in a trial that took place in the regional police headquarters in Bali.

Penpada and Alau were the only two persons indicted for involvement in attacks on demonstrators that took place after the shootings: the KPN report indicated that of the 91 wounded acknowledged as having been taken to the Wira Husada Military hospital, 49 were injured by stabbing or blunt instruments.

WHAT DO THE COURTS-MARTIAL REVEAL?

Taken together, the trial testimonies paint a picture of a sloppy, ill-prepared, ill-informed, poorly disciplined and poorly led army, with some soldiers reacting spontaneously to the stabbing of their colleagues and other apparently panicking amid sounds of shooting at the cemetery.

It is not a pretty picture of the Indonesian armed forces, but it is also a partial and misleading one. One of the eyewitnesses to the massacre testified that troops in dark brown uniforms opened fire methodically. Those uniforms would have been Brimob police, but no Brimob member was indicted. The soldiers from the Battalion 303 platoons testified to firing taking place before and after they themselves stopped shooting. The company led by Lieutenant Mursanib appears to have been one of the two companies sent as reinforcements after it became clear that

the demonstration was larger than anyone expected; its dispatch to the scene was clearly a last-minute undertaking. But which troops were already there when Mursanib's men arrived, and why have they not been named or indicted? The June 13 issues of two of the leading newsweeklies in Jakarta, *Tempo* and *Editor* openly raise the question of who the unnamed "uncontrolled forces" (*pasukan liar*) were which were at Santa Cruz when Mursanib and his men arrived.

Even if some spontaneous firing took place after the initial attack, there was no spontaneity about the cover-up afterward, and no new information was produced by the trials about who gave orders to dispose of bodies from Santa Cruz and from the morgue at the military hospital.

The "spontaneous reaction" theory is only one of a number of possible ways of explaining the massacre and not necessarily the most plausible. This is not to assert that the ten men lied; even assuming their testimony was the unvarnished truth, they represent only a very small part of a very complex whole. The question arises as to how these men were singled out for prosecution.

If, as some observers believe, the ten men were tried because they were named in the KPN report (and Asia Watch cannot confirm that they were, since the full report has not been made public), two facts must be kept in mind: most East Timorese were terrified of giving testimony to the KPN, and the local military tried to obstruct the team's investigation. Individuals would have been identified either because East Timorese were willing to name them; because the local military wanted them prosecuted; or because their involvement was too obvious to be ignored.

Shortly after the massacre, Asia Watch obtained an eyewitness account of the stabbing of Private Dominggus, an East Timorese whom a group of demonstrators regarded as having betrayed his own people by serving with the Indonesian army. A similar animosity might have made witnesses testify to the involvement of Mateus Maya, Afonso de Jesus and Marthin Pereira Alau.

Battalion 303 came in for close scrutiny immediately after the massacre and was the first ordered transferred out of Dili, in late November 1991. Colonel Binsar Aruan, with whom the convicted Lieutenant Mursanib was in constant communication at the cemetery, was one of the officers sacked in the aftermath of the killings. Given the prominent presence of 303 soldiers at Santa Cruz, a few key indictments may have been inevitable—and Mursanib was clearly visible in the video footage shown around the world.

The three sergeants at the KODIM who rushed out half-dressed after Gerhan Lantara was brought in bleeding, and the behavior of Lieutenant Penpada in reaction to the wounding of his superior are the core of the spontaneity theory.

A different theory has been put forward by the editors of *Indonesia*, the journal published by Cornell University. In the April 1992 issue, the editors suggest that a local mafia had been established by middle-ranking Indonesian officers who had no real prospect of promotion and every reason to milk East Timor while they could through business deals, speculation and racketeering.¹¹ The operational commander for East Timor at the time of the massacre, Brigadier General Rudolf Warouw, had embarked on a campaign to clean up corruption in the military shortly after he took office in December 1989, angering the mafia bosses in the process, according to the Cornell analysis. These bosses, working with local Apodeti (pro-inte-

gration) supporters had as a major goal the downfall of Warouw and the popular governor of East Timor who supported him, Mario Carrascalao. A key figure in this operation would have been Lieutenant Colonel Prabowo, President Suharto's son-in-law, whose links to Apodeti were well-established. According to this theory, these middle officers working with Apodeti would have had an interest in using the demonstration on November 12 to discredit Warouw and thus leave their business operations intact. Governor Carrascalao himself has suggested that the demonstration was the result of collaboration between these two forces, but both the demonstration and the response, domestic and international, were beyond what the plotters could have imagined. The Cornell analysis stresses the significance of the mass purge of the "all influential officers in the East Timor apparatus, at the Korem level and within Dili itself, striking right at the heart of the mafia . . ."¹²

The prominent role of the KODIM and the indictment of the East Timorese might lend support to this theory, but a more rigorous investigation of KODIM and KOREM commanders, Hidayat and Colonel J.P. Sepang would be necessary to test it. Both have been replaced since the massacre; neither appeared as witnesses at the courts-martial, although Hidayat submitted written testimony.

THE CHARGES AND VERDICTS

The nature of the charges suggest that the investigations of the men involved were not thorough. The indicted men served as witnesses in each other's cases; there were no civilian witnesses called, except in the case of Corporal Alau where the victim whose ear had been slashed appeared at the trial. Even given the reluctance to testify for fear of reprisals, surely a few of the 49 wounded by stabbing or clubbing and afterwards brought to the military hospital might have been able to identify their attackers.

In preparing this report, Asia Watch has not had access to the Indonesian military code. But a comparative perspective from the United States may be instructive. To bring a charge of murder or manslaughter against a soldier in the U.S., there would have to be evidence that the defendant deliberately or through negligence killed a particular victim. Given the way the demonstrators were massed and the lack of witnesses willing to testify, even if the military tribunals had been fair, it might have been difficult to match victims to perpetrators. It is also true that if a platoon leader had been accused of failing to control his subordinates, it is possible that charges would not have been brought against the subordinates.

But a host of lesser charges, ranging from assault with a dangerous weapon to willfully discharging a firearm, could have been brought against soldiers who fired into a crowd in such a way as to have been likely to produce bodily injury or death. If the three non-East Timorese enlisted men who allegedly rushed to the cemetery after seeing Major Lantara wounded had urged each other to go, a charge of conspiracy could have been brought in connection with one of the charges mentioned above. In the U.S., a charge of assault with a deadly weapon in the context of a large demonstration with a perceived threat of violence against security forces could produce a sentence of four years; the maximum would be eight years. Such extrapolations to a different legal system in a radically different political context have admittedly only limited use, but the outrage against the light sentences of eight to eight-

een months seems justified. It is also worth noting that no dishonorable discharges would take place in the U.S. without a court-martial. The peremptory dismissal of senior officers without any kind of judicial procedure may be another way of suppressing evidence.

The leniency of the sentences also raises questions about how far the testimony of those wounded was sought in the prosecutions of the military or whether the prosecution made any attempt to establish a linkage between the pro-integrationists who incited a brawl in front of the Motael Church on October 28 and the shooting that occurred in Santa Cruz on November 12. The fact that the ten men indicted lend credence to the "spontaneous reaction" theory may reflect the lack of political will on the part of the military prosecutors (*oditur*) to dig deeper.

TRIALS OF EAST TIMORESE CIVILIANS

The sentences given the soldiers are inevitably being compared with those handed down to East Timorese civilians in Dili and Jakarta. There are 13 trials underway in Dili, five in connection with the Motael Church incident of October 28 and eight in connection with the November 12 demonstration. As of mid-June, only two verdicts had been handed down. Juvencio de Jesus Martins, 30, received a sentence of six years, 10 months for taking part in clandestine meetings of resistance supporters to prepare for the visit of a Portuguese parliamentary delegation. Filomeno da Silva Pereira, 34, was accused of taking part in the same meetings and reproducing a cassette of a speech by East Timorese guerrilla leader Xanana Gusmao. He was given a term of five years and eight months in prison. The sentences requested in the other cases ranged from four years to life.

In a case still in process, Carlos dos Santos Lemos, aged 31, is facing a ten-year sentence for taking photographs during the November 12 demonstration, allegedly on assignment as a journalist for Fretilin. Dos Santos intended to send the photographs to Australia, Portugal and Japan, according to the prosecutor, in order to attract support for the independence movement. Dos Santos is also accused of being a member of the Fretilin Executive Committee and as such, taking part in underground meetings to plan the November 12 demonstration. He is being defended by court-appointed lawyer, Ponco Atmono, S.H., a Dili resident.

Five other East Timorese accused of planning or taking part in a demonstration in Jakarta on November 19 to protest the Dili massacre a week earlier already have been sentenced. Two were tried on subversion charges and received sentences of nine and ten years respectively. Three others who took part in the demonstration received terms ranging from six to thirty months. A complete list of those on trial and the sentences sought by the prosecution appears as Appendix 2.

The government's xenophobia and determination to punish those seen as having fuelled the international outcry, evident in the dos Santos case, was also evident in the trials of Fernando Araujo and Joan Freitas da Camara in Jakarta. While both were accused of contacts with Fretilin through the East Timorese students' organization, RENETIL, the judges focused on their contacts with foreign organizations and the fact that they had received donations of money from Australia and England. An Asia Watch report on the Jakarta trials is forthcoming.

CONCLUSIONS

The courts-martial help give the Indonesian government an appearance of even-

handedness. Indeed, journalists in Jakarta were speculating in February, just before the Council of Military Honor's press release was issued, that an equal number of civilians and military would be prosecuted. They were right: the five students in Jakarta and eight resistance supporters in Dili due for trial in connection with the November 12 massacre and subsequent protests marched the eight officers and men scheduled for indictment and five others under investigation noted in the Council release. (The police corporal and one of the two East Timorese privates were apparently not included in the Council's formulation.)

But justice is not the same as even-handedness. The fact that any investigation and any courts-martial at all took place is a step forward for the Indonesian government and should be recognized as such, but there has been no real accounting for the deaths and disappearances that took place on November 12. None of those convicted in late May and early June started the shooting; none organized the disposal of bodies or planned the cover-up which stressed the factor of spontaneity. It is difficult to avoid the conclusion that the courts-martial were stage-managed for international consumption, particularly when documents which might shed further light on events in Dili, such as the full KPN report and the full report of the Council of Military Honor, have been kept under wraps.

The Indonesian government should be pressed for a fuller response to the Dili massacre. The July 16 meeting in Paris of a new World Bank-led consortium of donor countries which provide aid to Indonesia is one opportunity to do so; the August meetings of the Decolonization Committee of the United Nations (New York) and the UN Subcommittee on the Prevention of Discrimination and Protection of Minorities (Geneva) are two more; and the Non-Aligned Movement summit in September in Jakarta is a fourth. The United Nations meetings would be particularly appropriate fora to press for the release of a confidential report submitted to UN Secretary General Boutros Boutros-Ghali by his personal envoy, Amos Wako, who visited East Timor in February to assess the aftermath of the massacre and wrote what insiders characterize as a blistering critique of the Indonesian government.

Embassies in Jakarta should continue to ask questions about the dead and missing. They should express concern over the cruel and unusual punishment meted out to East Timorese civilians in Jakarta and Dili. They should make it clear to their counterparts in the Indonesian government that they have reservations about the way the courts-martial were conducted, in terms of who was selected for trial and as witnesses. They should strongly urge the publication of the full KPN and Council of Military Honor reports.

The Indonesian press clearly does not believe the official version of what happened on November 12; the skepticism of the international community should be no less.

APPENDIX I.—THE COURTS-MARTIAL

1. Pvt. Mateus Maya: Sentenced to 8 months on May 30, 1992.
2. Pvt. Afonso de Jesus: Sentenced to 8 months on May 30, 1992.
3. 1st Corporal (Police) I.P. Marthin Alau, 35: Sentenced to 17 months.
4. 1st Sgt. Aloysius Rani: Sentenced to 18 months on June 3, 1992.
5. 1st Sgt. Udin Syukur: Sentenced to 18 months on June 3, 1992.
6. 1st Sgt. Petrus Saul Mada: Sentenced to 12 months on June 3, 1992.

7. 2nd Lieut. Sugiman Mursanib, 48: Sentenced to 14 months on June 3, 1992.
 8. 2nd Lieut. John Artonang, 26: Sentenced to 12 months on June 3, 1992.
 9. 2nd Lieut. Handrianus Eddy Sunaryo: Sentenced to 12 months on June 5, 1992.
 10. 2nd Lieut. Yohanes Alexander Panpada, 48: Sentenced to 8 months.

APPENDIX II.—TRIALS OF EAST TIMORESE CIVILIANS

Name, prosecution request sentence

- A. In Jakarta:
 1. Fernando de Araujo, 9 years.
 2. Joao Freitas da Camara, 10 years.
 3. Virgilio da Silva Gutierrez, 2 years, 6 mos.
 4. Agapito Cardoso, 10 months.
 5. Domingus Bareto, 6 months.
 B. In Dili, in connection with November 12:
 1. Gregorio da Cunha Saldanha, 29, life.
 2. Francisco Miranda Branco, 41, 15 years.
 3. Jacinto des Neves Raimundo Alves, 34, 8 years.
 4. Filomeno da Silva Pereira, 34, 8 years—5 years, 8 mos.
 5. Juvencio de Jesus Martins, 30, 10 years—6 years, 10 mos.
 6. Carlos dos Santos Lemos, 31, 10 years.
 7. Bonifacio Mago, not yet on trial.
 8. Saturnino Da Costa Belo, not yet on trial.
 C. In Dili, in connection with October 28:
 1. Bobby Xavier, 18, 4 years.
 2. Joao dos Santos, 23: not yet requested.
 3. Aleixo da Silva alias Cobra, 22: 4 years.
 4. Jacob da Silva: ?
 5. Bonifacio Bareto: ?
 For further information: Sidney Jones (212) 972-2258(o), (718) 398-4186(h).

FOOTNOTES

- ¹For a full description of events on November 12, see Asia Watch, "East Timor: The November 12 Massacre and Its Aftermath," Vol. 2, No. 26, December 12, 1991.
²Advance Report of the National Commission of Inquiry into 12 November 1991 Incident in Dili, "unofficial translation distributed by Indonesian embassy in Washington, December 26, 1991.
³See Asia Watch, "Asia Watch Criticizes Commission Report on East Timor," Vol. 4, No. 1, January 3, 1992.
⁴Angkatan Bersenjata Republik Indonesia, Markas Besar, Tentara Nasional Indonesia Angkatan Darat, "Penjelasan Kepala Staf TNI-AD Tentang Hasil Kerja Dewan Kehormatan Militer dan Rencana Tindak Lanjut," February 27, 1992.
⁵Besides Gatot Purwanto and Binsar Aruan, those purged include Assistant for Operations Colonel Dolfi Rondonuwu; Assistant for Logistics Colonel Sutopo; Assistant for Territorial Affairs Colonel Michael Suwito; Assistant for Planning Colonel Tutut Subari; Commander of Korem 164 Colonel J.P. Sepang who was also Deputy Operations Commander under Warouw; and Lieutenant Colonel Wahyu Hidayat of KODIM 1627.
⁶See Asia Watch, "Asia Watch Calls for International Monitors at Trials of East Timorese," Vol. 4, No. 2, January 9, 1992.
⁷"Dua Perwira dan Tiga Bintara ABRI Dihukum dalam Kasus Dili," Kompas, June 4, 1992.
⁸"2 Pama ABRI Dijatuhi Hukuman 26 Bulan Penjara," Sinar Pagi, June 4, 1992 and personal communication from Indonesia.
⁹"Letda SM Dalam Kasus Dili Mulai Dimahmilkan," Suara Karya, June 3, 1992.
¹⁰"Dua Perwira dan Tiga Bintara ABRI Dihukum dalam Kasus Dili," Kompas, June 4, 1992.
¹¹"Current Data on the Indonesian Military Elite," Indonesia, No. 53, April 1992, pp. 6-9.
¹²Ibid, p. 8.

TRIBUTE TO THE SUSQUEHANNA NEIGHBORHOOD ADVISORY COUNCIL

Mr. SPECTER. Mr. President, on Saturday, June 27, 1992, the Susque-

hanna Advisory Council in Philadelphia, PA, will hold a ceremony to honor volunteers who have contributed their time and efforts to carry out the council's mission of serving low-income residents in its community.

Since 1978, the council has provided a wide range of services, programs, and assistance to improve its north Philadelphia area. Its hardworking and devoted members have furnished food, housing, clothing, and fuel assistance to the least fortunate in their area.

The council, through the leadership of its executive director, Jewel Williams, has endeavored to enrich the life experiences of both young and old with tutorial and recreational services and with diversified counseling services. It has helped young mothers with their infants; it has initiated antidrug projects for youth; it has worked to improve the physical appearance of its environment with cleanups and site improvements.

Its volunteers have exhibited to a great degree the virtue of altruism in trying to improve the lives of those who, for whatever reasons, are struggling to cope with harsh and difficult life situations beyond their control. They truly care about their less fortunate neighbors.

Efforts such as these initiated by the Susquehanna Neighborhood Advisory Council deserve the commendation of all. It exemplifies what is most noble about human beings—the desire to assist those most in need of assistance. As the pundit wisely and accurately put it: "No one stands so tall as when he or she stoops to assist one who has fallen and is in distress."

Therefore, I believe it is fitting that the U.S. Senate take note of the accomplishments of the Susquehanna Neighborhood Advisory Council and its worthy volunteers and congratulate all for their work on this joyous occasion. Following is a list of these outstanding citizens:

Sultan Ahmand, Kendrick Allen, Thurston Alston, Thomas Anderson, Dr. Molefi K. Asante, Rachel Bagby, Lorraine Ballard-Morrell, Henry Blackwell, Rev. Ralph Blanks, Gladys Bond, Mary Jane Brace, Mrs. Bryant, Charlie Bush, Andrew Carn, Frank Caul, Jason Clark, Darryl Clark, Helen Clowney, Ronald Cuie, Henry DeBernardo, Ted Dennery, Elliott Eberheart, Calvin Gibson, Barbara Grant, Gwendolyn Harris, Corrine Henry, James Huff, Clarence Jackson, Frances Jones, Roxanne Jones, Lu-Ann Kahn, Kentu, Shirley Kitchen, Sam Kuttub, Kevin Lamb, Rose L. Logan, Evelyn Lynch, Thera Martin-Connelley, Eddie McDaniels, Jim McGruther, Elizabeth Morton, Charlie Nimmons, Kenneth R. Norris, Vernon Odon, Dollie Pinckney, Irene Randolph, Sheler Robinson, Ruth L. Robinson, Jayne Scott, John Sims, Marshall Smith, Rev. Robert Taylor, Curtis

Thomas, Kay Thompson, Sekou Uhuru, Rev. Repsie M. Warren, Ukee Washington, Rebecca Waters, Rev. Henry Wells, Ronald Williams, George Williams, Georgie Woods, and Jimmy Wright.

THE ROLE OF THE RUSSIAN ARMY IN INDEPENDENT MOLDOVA

Mr. PRESSLER. Mr. President, today I rise to record my strong reservations over considering S. 2532, the Freedom Support Act, on the Senate floor while the situation in the former Soviet Union degenerates into violence. This past weekend over 200 people, including innocent civilians, were killed in independent Moldova. May apparently be killed by Russian soldiers. Additional reports of this nature continue to come to my attention.

The overt involvement of the Russian military and recent statements by Russian leaders supporting military intervention to "support the oppressed Russian minority" are actions that should not be rewarded with generosity by United States taxpayers.

If the violence in Moldova, with the direct participation of the Russian Army, does not end, a precedent will be set for the use of Russian military force in possible conflicts extending into the Baltic States and other areas of the former Soviet Union. Disgruntled military commanders in the Baltic States may turn to aggression in response to demands by the Baltic citizens and governments for Russian troops to leave their territories.

Mr. President, there is an unseemly eagerness in Washington to reward President Boris Yeltsin for his leadership and for his fine speech to Congress last week. The thought is that massive foreign aid can keep him in power against the entrenched Communists in the Russian military and bureaucracy. I commend President Yeltsin's words in support of openness, nonviolence, and peace. Yet, the facts in Moldova tell a different story and harken back to Russian imperialism.

While President Yeltsin has called for mediation of the conflict, he also has warned the Moldovan government: "In this case, we [Russia] must react to defend people and stop the bloodshed. We have the strength to do that." At the same time, the military—including Russian Vice President Aleksandr Rutskoi and the Commander in Chief of the CIS armed forces, Marshal Evgenii Shaposhnikov—have urged action by the military.

Mr. President, the situation would not be as it is today if the Soviet Army, now the Russian Army, had stayed out of the conflict in the beginning. The root cause of this conflict is the illegal presence of the 14th Army of Russia in the territory of independent Moldova. For months, the 14th Army has sold arms to the Communist separatists in Moldova and has overtly de-

clared its support for secession of the Transdniester region of Moldova.

The Russian 14th Army has worked side by side with the Dniester National Guard to gain control of the Transdniester and invade Bessarabia, the area of Moldova between the Prut and the Dniester Rivers. The Moldovans have been outnumbered greatly in the struggle against both of these well-armed groups.

It is important to note that the leaders of the Dniester Republic supported the hardliners' coup attempt in Moscow last August. They represent Communist orthodoxy. They are not protecting the people of Transnistria, but are using them as bargaining chips in their game to restore the Soviet Union.

Last year I introduced a resolution supporting the people of Moldova in their struggle for self-determination and independence from the Soviet Union. The Romanian people of Moldova were the fourth group of victims of the Nazi-Soviet pact. The land of Moldova, not composed of the Transdniester region, was seized by the Soviet Red army from Romania in 1940. The Government of Moldova did not choose its current borders. Yet, according to international law, Transnistria belongs to the Republic of Moldova. It is home to Moldovans, who represent 40 percent of the population, as well as Ukrainians and Russians whose interests also must be taken into account.

Mr. President, I commend the administration for urging the Russian Government to remove the 14th Army. Under no circumstances should Russian troops be stationed in or used in a foreign country intervene in any conflict within that foreign nation. Additionally, I urge an end to the supply of Russian arms to the separatists in the Transdniester.

Finally, the State Department should urge the Russian Government to end immediately the current economic blockade of Moldova. At this time, over 60 percent of natural gas supplies to Moldova have been cut and railway transportation links have been served. Such economic sabotage is a violation of the basic human rights of the people of Moldova. It is also an act of international violence.

Mr. President, I firmly believe that United States assistance efforts should be conditioned upon the cessation of Russian military violations of the sovereignty of its neighbors—both in Moldova and in the Baltic States.

TRIBUTE TO COMMONWEALTH EDISON

Mr. DIXON. Mr. President, on April 13, 1992, the city of Chicago was struck by what many consider its worst physical disaster since the great fire of 1871. A piling, accidentally driven into a

long-forgotten underground freight tunnel system, caused a leak that sent 250 million gallons of Chicago River water rushing into the 48-mile-long subterranean network. Water poured into the basements and subbasements of buildings across the city's famed Loop. Tens of thousands of downtown workers were sent home. The potential for a much larger disaster was enormous, yet thanks to the quick, determined action of many dedicated people, not one death or injury resulted.

Today, I want to single out the response of one key organization—Commonwealth Edison Co.—which has been providing electric service to Chicago for 105 years.

At first news of the catastrophe, Edison put its emergency plan into action. The company mobilized a task force of 500 experts from across its northern Illinois territory and told them they would be working 12-hour shifts, around the clock, until the battle was won. Edison crews moved swiftly to disconnect power to buildings in order to prevent rising floodwaters from coming into contact with live electrical equipment. Company engineers worked closely with building operators, updating them, assessing the damage, and estimating how long the outages would last. Another cadre stayed in continual touch with the news media, so the public would have the very latest information.

Sixty-four hours after the first buildings went dark, Edison crews restored service to all locations where the customers' facilities were capable of operating safely. In all, the restoration team logged more than 70,000 individual work hours. Their primary mission had been to ensure public safety by protecting electrical equipment from rising flood waters, then to restore power as quickly as possible. That mission not only was accomplished, but so efficiently that it will not cause an increase in customers' electricity bills.

Therefore, let the record reflect our recognition of Commonwealth Edison's truly outstanding performance in protecting the safety of the citizens of Chicago and restoring normal business activity in the face of an unprecedented crisis. The men and women of Commonwealth Edison merit the recognition of us all.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2733, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2733) to improve the regulation of Government-sponsored enterprises.

The Senate resumed consideration of the bill.

Pending:

Riegle Modified Amendment No. 2437, of a perfecting nature.

Dodd Amendment No. 2440 (to Amendment No. 2437), to revise certain provisions of the Securities and Exchange Act of 1934 relating to proxy solicitation rules with respect to partnership rollup transactions.

Mr. DODD. Mr. President, what is the pending matter before the Senate?

The PRESIDING OFFICER. The pending matter is the amendment offered by the Senator from Connecticut.

AMENDMENT NO. 2440 TO AMENDMENT NO. 2437

Mr. DODD. Mr. President, the amendment I offered last evening on behalf of myself and the distinguished Senator from Missouri [Mr. BOND] is a proposal which is cosponsored by over 70 Members of this body, along with 17 members of the Banking Committee.

The first question that may occur is why this amendment has been offered here on the floor of the Senate rather than going through the normal committee processes. We tried to move it through committee on two occasions. Under the rules of the Senate, of course, Members can utilize procedures to delay action. And a Member exercised his rights, decided that this piece of legislation is not in the best interests of the country, and has objected to the matter coming forward. As a result, we have been stopped, in a sense, from proceeding in the normal way.

So I have used the opportunity on this particular legislation, given the time of the year when we are going to have very few further opportunities to bring up legislation, to offer this piece of legislation as an amendment to the Government-sponsored enterprises legislation.

Mr. President, this amendment contains the text of the Rollup Reform Act, S. 1423, including a number of modifications that were made as part of the committee print considered by the Banking Committee, as I mentioned a moment ago, on two occasions in the past 2 months. I regret we were unable to move this bill out of the committee. Seventeen members, as I have already mentioned, are cosponsors of the bill. Procedural objections were raised on two occasions when we convened for markup.

So I believe it is appropriate, given the objections in considering the legislation in the committee, to bring it before the full Senate.

The Limited Partnership Rollup Reform Act was introduced almost a year ago. There are now more than 70 Senate cosponsors of this legislation. One of my colleagues has suggested that the number of cosponsors of this measure is meaningless, that the Senators just did not know what they were doing when they cosponsored the legislation.

I think my colleagues cosponsored this bill for the same reason that I drafted it. Senators have received thousands, literally thousands, of letters on this issue. Constituents, not special interests, but small investors in our States have detailed a long record of abuse in limited partnership rollups. They have been ripped off, they are mad and upset about it, and they want some changes made. They have asked for our help, and this bill provides for the protections they have asked for and they need.

Mr. President, the Securities and Exchange Commission has estimated that since 1980, \$130 billion in public limited partnerships have been sold to investors in this country. There are an estimated 8 million investors in these partnerships, with an average investment of around \$10,000. As small as this may sound, for many of these individuals, the \$10,000 or \$20,000 that they have invested in these limited partnerships represents a large part of their savings, and in some cases all of their savings.

None of these investors believed they were getting a risk-free return, Mr. President, but promises were made to them about the nature of their investment and the obligations the general partners had to them.

First, these investors were told that they would receive distributions from the partnerships on a periodic basis and that, in a certain period of time, say 8 to 10 years, all of the property of the partnership would be sold. It was promised further that when the partnership was terminated, the limited partners would receive the proceeds from the sale of the remaining property or other assets.

Second, Mr. President, these investors were assured that the general partners had a great incentive to look out for the interests of the limited partners. Because, with the exception of management fees, the general partners could not take out any profits until the limited partners had received their share.

But the assets of many limited partnerships, particularly those invested in real estate, declined in value. The general partners were unable to sell new partnerships, their fee bases declined, and their prospects for taking a profit after paying off the limited partners also declined dramatically. So the general partners decided to change the deals—and there is where the problem occurs. They attempted, successfully in many, many cases, to roll up existing limited partnerships into new corporations or real estate investment trusts in which the rights of investors were not at all what they were in the limited partnerships.

Mr. President, even those who oppose the legislation would admit that there has been a long record of serious abuses in these transactions. There has been confusing and misleading disclosure to

investors. One prospectus contained over 700 pages of material so confusing, I might add, that even the Chairman of the SEC said he could not understand it. There have been efforts by the general partners to keep limited partners from communicating with each other to oppose a rollup. Proxy solicitors have been paid commissions for delivering "yes" votes only and were pressuring investors to vote yes.

The general partners structured the deals to award themselves abusively high fees in the rolled up entity. The general partners also structured the deals so that they could take equity positions in the new rolled up entity with no equity contribution on their part whatsoever. There were substantial reductions in the voting rights of investors and increases in the voting rights of the management after the rollup.

There have been further major changes in the business operations investors were promised in the original deals. Managements were barred from engaging in transactions with affiliates in the original limited partnerships. They have restructured the agreements so that they could now make deals with affiliates and pay high fees to those affiliates.

Mr. President, no one has disputed the extent of these abuses. No one has disputed that in most cases the rights of investors are decreased, and decreased substantially as a result of one of these rollups. And the rights of management—I am talking about the voting rights, equity interests, management fees, the ability to engage in affiliate transactions—all of these rights on the part of management are substantially increased. This has happened repeatedly in one rollup deal after another.

Many investors have called me and written saying they have voted against a rollup but have been forced to accept shares in a new entity that they do not want, with the management fee structure that ensures management will be paid first and investors will be paid last; directly contrary to what they were told when they were solicited to invest in the original limited partnership arrangement.

In many of these transactions, Mr. President, the securities issued in the rollup declined 20, 30, or 40 percent more on the first day of trading.

A recent article in *Barron's* shows losses of 80 and 90 percent or more in the years following certain rollups.

Mr. President, the amendment that we have introduced addressed these problems. Let me describe briefly what it does. The amendment requires complete and understandable disclosure to limited partners and requires a summary of the risks to be in the front of any disclosure documents sent to investors. It gives investors the tools they need to communicate with other

limited partners, in order to mount opposition to abusive rollup proposals. It ensures that investors will have more time to consider complicated rollup transactions, 60 days, unless the State provides for a shorter period of time. And the amendment provides or moves the incentive for market professionals to pressure investors to vote in favor of a rollup by prohibiting special compensation for "yes" votes only.

The amendment also directs the NASD and the exchanges to adopt rules of fair practice, to give those shareholders who vote against a rollup an alternative, so they will not be forced into accepting shares in an investment that they never wanted. Under the bill, the NASD and the exchanges also could prevent excessive and abusive fees to management, and could prevent reductions in the voting rights of limited partners in these new rolled up entities.

Now it is true, Mr. President, that the SEC has adopted some of these reforms, but the SEC started moving on its disclosure proposals more than a year after we first alerted SEC to the problems. The SEC has proposed changes in the proxy rules to make it easy for limited partners to communicate with each other, but the SEC has not adopted those rules at this time. I am deeply concerned that those issues may not be resolved before this Congress adjourns.

This legislation, in my view, is needed to ensure that these issues are addressed before Congress goes home for the year. The NASD has been working on rules of fair practice, which it will adopt for its members if this legislation passes. We must have legislation to ensure consistent standards for the NASDAQ market and for the exchanges. We cannot afford to create loopholes here.

Finally, let me say that even the partnership industry is telling us that it wants this legislation. We have worked closely with them, as we have with State regulators, and we now have a bill that business can work with to restructure partnerships that are in trouble, but that protects investors from the abuses we have seen in the past. This legislation is supported by the State securities regulators; the Association of Individual Investors; United Shareholders Association; the National Association of Realtors; the Investment Program Association, and other business and investment groups.

Let me underscore that there is agreement on this legislation both from the investors it seeks to protect and from the industry that would be affected by it. It is good for business, and it is good for investors.

Mr. President, at this point, I would like to submit for the RECORD copies of a number of letters in support of this legislation that have been sent to us. I ask unanimous consent that these let-

ters be printed in the RECORD at this juncture.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INVESTMENT PROGRAM ASSOCIATION,
Washington, DC, May 19, 1992.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN DODD: The Investment Program Association supports your bill to regulate the reorganization of limited partnerships and we will continue to work with you and others to see it enacted into law as soon as possible.

As the national trade group for the sponsors and sellers of limited partnerships and other types of direct ownership securities, we have long advocated that measures be taken by the Securities and Exchange Commission, the National Association of Securities Dealers, the national stock exchanges and the Congress to discipline partnership restructurings in a manner fair to both the limited partners and their general partners.

Your bill, S. 1423, is an important step in obtaining that necessary discipline and we applaud your balanced approach.

No well informed person can doubt that our nation's economy, in general, and real estate, in particular, is facing troubled times. The recent bankruptcy filing by Olympia and York points to the difficulties facing even the most experienced in the real estate industry.

There will continue to be a great need to restructure financial arrangements in real estate, as well as in the energy industry. Because both sectors were heavily reliant upon partnership financings, we can anticipate more reorganizations and restructurings of limited partnerships.

While some in Washington have noted that this is an area of law commonly left to the states to develop, the North American Securities Administrators Association, an organization of state securities regulators, and the Investment Program Association have called for action on the federal level to provide for a uniform set of laws and regulations for partnership reorganizations. Unless action such as you propose in S. 1423 is taken at the federal level, general partners and their investors will face an uncertain and possibly conflicting body of laws at the state level.

The Investment Program Association urges the Senate to proceed promptly on its consideration of S. 1423 and we will continue to be a resource to you and your fine staff throughout the deliberations.

Sincerely yours,

CHRISTOPHER L. DAVIS,
President.

INVESTMENT PROGRAM ASSOCIATION MEMBER
LIST, MAY 14, 1992

AGS Financial Corp.
Altschuler, Melvoin & Glasser.
America First Companies.
American Finance Group.
American Retirement Villas.
American Stock Transfer & Trust Co.
Anchor National Financial Services, Inc.
Angeles Corporation.
Applied Information Solutions.
August Real Estate Investment, Inc.
The Balcor Company.
Bankers Trust.
Banyan Management Corporation.
Barry A. Soble & Associates.
Boston Bay Capital.

Boston Capital Services, Inc.
The Boston Company.
The Boston Financial Group.
Brown & Wood.
Capital Vectors.
Chase Manhattan Bank.
CIGNA Financial Partners, Inc.
CLR/Fast-Tax.
Clark Financial Corp.
CNL Investment Company.
Con Am Securities, Inc.
Continental Wingate Capital Corp.
Coopers & Lybrand.
C.R.I., Inc.
CSA Financial Corp.
Daniels Printing Company.
Dean Witter Reynolds.
Deloitte & Touche.
DiVall Real Estate Securities Corp.
Edler & Cornicelli.
EIP Capital Corp.
Equity Resources Group.
Ernst & Young.
Financial Network Investment Corp.
First Capital Financial Corporation.
First Financial Corporate Advisors.
Fischbein & Badillo.
The Fox Group.
Franchise Finance Corporation of America.

Franklin Properties, Inc.
Funds Service Corp.
GEMISYS.
Geodyne Resources, Inc.
Graham Resources.
Gruntal & Company, Inc.
Hale & Dorr.
Holmes & Graven.
Hunton & Williams.
ICON Capital Corporation.
IDM Securities.
IDS Financial Services, Inc.
Income Growth Capital, Inc.
JMB Realty Corporation.
Jones International Securities.
Kaye, Scholer, Fierman, Hays & Handler.
Kelley, Drye & Warren.
Kidder, Peabody & Company, Inc.
Krupp Securities.
Kutak Rock & Campbell.
Lassen, Smith, Katenstein & Furlow.
Lepercq Capital Partners.
Liberty Real Estate Corporation.
MAVRICC Management Systems.
McNeil Real Estate Management, Inc.
Merit Capital Corporation.
Merrill Lynch Capital Markets.
Merrill Lynch, Hubbard, Inc.
National Partnership Exchange.
National Partnership Investment Corporation.

National Properties Investors, Inc.
New England Securities Corp.
NYLIFE Securities, Inc.
PLM Investment Management, Inc.
Paine Webber Development.
Paine Webber, Inc.
Paine Webber Properties.
Parker & Parsley Petroleum.
Pegasus Capital Corporation.
Phoenix Leasing Inc.
Polaris Aircraft Leasing.
Price Waterhouse.
Provine & Associates.
Prudential Securities.
Public Storage, Inc.
Rancon Financial Corporation.
Realty Income Corporation.
Reed Smith Shaw & McClay.
Registrar & Transfer Company.
Related Capital Corporation.
Robert A. Stanger & Co.
Robinson Silverman Pearce Aronsohn & Berman.

Rogers & Wells.
Royal Alliance Associates, Inc.
Rubin Baum Levin Constant and Friedman.
Scott & Stringfellow, Inc.
Service Data Corp.
Shareholder Communications Corp.
Shartsis, Friese & Ginsburg.
Shaw, Pittman, Potts & Trowbridge.
Shearson Lehman Hutton.
Shurgard Storage Centers.
Silver Screen Management.
Smith Barney, Harris Upham & Co.
Standard & Poor's Corp.
SunAmerica Securities, Inc.
Swift Energy Company.
T. Rowe Price.
Technology Funding, Inc.
Torchmark Leasing Programs.
Trien, Rosenberg, Felix, Rosenberg, Barr & Weinberg.
W.J. Hoyt & Sons Management Co.
W.P. Carey & Co., Inc.
Water Acquisition & Management Co.
Westin Financial Group, Inc.
The Windsor Corporation.
Zahren Financial Corporation.

AMERICAN ASSOCIATION OF
INDIVIDUAL INVESTORS,
Chicago, IL, May 15, 1992.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: As chairman of the American Association of Individual Investors, I would like to express my support for S. 1423. I am sure that our 130,000 members, many of whom have been financially hurt by roll-ups, look forward to its passage.

The evidence examined by the committee and the personal experiences of our members, point out the need for such legislation. The bill incorporates the reforms most necessary to prevent future roll-up abuse and I hope it moves forward without changes that would weaken its effectiveness.

This reform is desirable for the investment industry, as well. Without it, public limited partnerships will lose their place as a major means of raising capital in a number of areas important to the economy.

Sincerely,

JAMES B. CLOONAN,
Chairman.

UNITED SHAREHOLDERS ASSOCIATION,
Washington, DC, May 19, 1992.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR DODD: As president of the United Shareholders Association, a grassroots organization with a membership of 65,000 individual investors nationwide, I am writing to support legislation, S. 1423, to protect investors in limited partnerships against abuses in the "roll-up" process.

The "Limited Partnership Rollup Reform Act," now pending before the Senate Banking Committee, is an urgently needed response to the evidence compiled by the committee of abuses practiced by some roll-up sponsors. The legislation recognizes that an important part of the solution is to provide limited partners with the opportunity for meaningful and informed decision-making. S. 1423 takes a narrowly focused approach to remedy the worst abuses of the roll-up process.

The legislation also recognizes that there are important distinctions between the traditional types of corporate restructuring for which the federal securities laws were origi-

nally designed and limited partnership rollups. Given these distinctions, an adjustment of federal regulations is appropriate to restore investor confidence in these limited partnership transactions.

USA supports the key reforms proposed in S. 1423, including: Dissenters' rights; protection of limited partners' voting rights; more comprehensive and clear disclosure to limited partners facing a rollup; more informed decision-making through communication among limited partners, access to limited partner lists and allowing limited partners more time to consider a rollup; independent fairness opinions and appraisals.

The record of abuses uncovered by the Banking Committee and its Securities Subcommittee leaves no doubt that limited partnership rollups are a major problem area for investors today. Swift action on the part of Congress to rectify these abuses is required, and USA respectfully urges the immediate adoption of S. 1423.

Sincerely,

RALPH V. WHITWORTH,
President.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, May 19, 1992.

Hon. CHRISTOPHER DODD,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

SENATOR DODD: I understand that S. 1423, the "Limited Partnership Rollup Reform Act," will be considered on Thursday, May 21st, by the Senate Banking Committee. On behalf of the North American Securities Administrators Association (NASAA),¹ I am pleased to lend the Association's strong support for the reforms contained in the proposed legislation. NASAA respectfully urges you to adopt this initiative and to reject any attempts to weaken the legislation.

The reforms contained in S. 1423 would go a long way toward remedying the pervasive investor abuses now present in the limited partnership roll-up process and would help restore the eroded investor confidence in these markets. Among the key elements of S. 1423 supported by NASAA are:

Clear and specific criteria governing the roll-up transactions in which members of the National Association of Securities Dealers (NASD) may participate and those transactions which would qualify for listing on a national exchange or the National Association of Securities Dealers Automated Quotation (NASDAQ) system, including: (1) rights for dissenting limited partners; (2) prohibitions on "supermajority" voting requirements; and (3) restrictions on increased fees and compensation to general partners sponsoring a roll-up.

Reforms to curb the abusive practices that have developed in the roll-up proxy solicitation process. Among the key reforms supported by NASAA are: (1) more meaningful and understandable disclosure; (2) permissible communication among limited partners and adequate time for review of the roll-up prospectus; and (3) more "fair" fairness opinions.

While the reforms contemplated under S. 1423 would go a long way toward remedying the pervasive abuses now present in the roll-up process, NASAA's view is that the measure could be further fortified through the addition of a provision which would require that an independent committee operating on

behalf of limited partners be established in all proposed roll-up transactions. Because of the enormous potential for conflicts of interest on the part of the general partners, there must be some countervailing force in these transactions operating on behalf of the limited partners.

You may be interested to learn that in October 1991, the NASAA membership approved important amendments to existing guidelines which govern the state-level registration of limited partnerships. These amendments were adopted in order to address future abuses in limited partnership roll-ups. Under the new NASAA guideline language, limited partnerships will not be permitted to enter into roll-ups without providing specific protections for investors, including dissenters' rights and access to needed information, such as the list of other limited partners.

It should be recognized that the new NASAA guidelines are strictly prospective in nature, and as such, will only come into play with the state registration of new limited partnerships. In commenting upon the guideline amendment, NASAA president Lewis Brothers observed that, "NASAA's new action will help future limited partners, but not the millions of limited partners who already are out there and endangered by roll-ups. NASAA has done what it can to help limited partners down the road; only Congress can protect those who are in serious jeopardy today."

Mr. Chairman, you and your colleagues are to be commended for your important efforts to explore the very serious investor protection issues that arise in connection with roll-up transactions. Today, almost all roll-ups of public limited partnerships are approved for exchange listing and, therefore, such offerings sidestep state substantive review. The net effect of this process is that individual limited partnerships that had been screened through state investor protection standards are converted literally overnight into investment instruments outside of the ambit of state regulation. In this way, limited partners effectively are stripped of the many and important safeguards required under state review. State securities regulators are gravely concerned that these transactions deprive small investors of the many and important protections afforded to them under state regulation of limited partnerships. Further, federal securities laws and rules as they are applied to roll-ups in no way compensate for the stripping away of these state-level protections.

S. 1423 is a carefully crafted and narrowly drawn package that has as its focus abusive limited partnership roll-ups. The reforms included in the legislation recognize that these transactions are unique and distinct from the traditional corporate restructurings for which the federal securities laws were designed and that additional investor safeguards must be put in place. While many pieces of securities-related legislation that come before the Banking Committee may serve a narrow audience or agenda, it should be recognized by one and all that S. 1423 would provide immediate and urgently needed relief for literally millions of small investors all across this nation. Accordingly, NASAA respectfully urges the swift adoption of S. 1423.

Please contact Maureen Thompson, NASAA's Legislative Adviser, at 703/276-1116 if you have any questions or would like additional information on NASAA's position.

Sincerely,

LEE R. POLSON,
Executive Director.

THE COMMONWEALTH
OF MASSACHUSETTS,
Boston, MA, May 18, 1992.

Mr. MICHAEL STEIN,
Senate Banking Committee, Dirksen Senate Office Building, Washington, DC.

DEAR MR. STEIN: This letter is in response to your request for a more detailed statement of the position of the North American Securities Administrators Association ("NASAA") and its members on the Limited Partnership Roll-Up Reform Act (S. 1423), which addresses abusive practices in roll-ups and conversions of partnership investment programs.

The Securities Division of the Office of the Secretary of State has received a large number of complaints from individual investors and from financial planners regarding recent roll-ups and conversions of partnership investment programs. These complaints have been unusual in both their number and intensity, with the common theme that investors were being cheated in these transactions.

Among the problems that we have seen in roll-ups and conversions are:

Substantial increases in sponsor fees and removal of fee caps after the transactions are completed (e.g., the Berkshire Realty Company, Inc. roll-up of the Krupp real estate programs resulted in an increase in compensation to Krupp over an 18 month period from \$9.8M to \$13.7M, a 38% increase);

Substantial extension of the duration of the investment, with many finite life partnerships being changed into indefinite life programs (e.g., the Milestone Properties roll-up of the Concord real estate partnerships converted finite life, self-liquidating partnerships into an infinite life entity; also the Berkshire Realty roll-up);

Systematic removal of protections against sponsor conflicts of interest (e.g., the Hallwood Realty Partners roll-up of the Equitec partnerships stripped away prohibitions on the sponsor selling properties to, or buying properties from, the new program, creating a significant new risk for investors and an ongoing source of conflicts for the sponsor);

Substantial increases in the portion of the program held by the sponsor after the completion of the transaction (e.g., in the Milestone Properties transaction, the original partnerships would have paid no economic benefit to the sponsor upon liquidation (because priority return target for investors had not been achieved), yet the sponsor received a 9% equity interest in the new entity with a book value of \$5M);

Limitation of investors' voting rights by means of new, supermajority vote requirements (e.g., the Berkshire Properties, Hallwood Realty, and Milestone Properties roll-ups);

Increases in the allowable level of program borrowing, increasing the risk of the investment (e.g., the Hallwood Realty Partners and the Berkshire Properties roll-ups); and

Very substantial discounts in the market price of the roll-up securities compared to the estimated value of the assets underlying those securities, apparently due to the unattractive fee structures and terms of these entities (e.g., National Realty, L.P., which trades at an 89% discount to net asset value; American Real Estate Partners, which trades at a 63% discount; and Berkshire Realty, which trades at a 47% discount).

The roll-up and conversion transactions about which we have received complaints have been listed on the New York Stock Exchange, the American Stock Exchange, or

¹In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for the protection of investors and the efficient functioning of the capital markets at the grassroots level.

the NASDAQ/National Market System. Under Massachusetts law, and under the laws of most other states, such an exchange listing exempts these transactions from state review. Because these transactions are not filed with us, we cannot review them and we cannot require that they include the same protections for investors that we require for partnership investment programs. Recently, Massachusetts and other states have acted through NASAA to adopt standards to make new partnership programs more resistant to abusive roll-ups and conversions. Because the states can act only with respect to newly-formed programs, however, we are unable to protect investors in existing partnership programs. Federal legislation is needed in order to protect these investors.

Despite predictions to the contrary, abusive roll-ups and conversions have not died away. We recently received a detailed letter of complaint from a large financial planning firm regarding the conversion of Hallwood Consolidated Partners (an oil and gas investment program) from partnership to corporate form. This conversion was approved on April 21, 1992. This transaction, which was essentially a single-program roll-up, included the following problems:

1. The original partnership agreement restricted investment to producing oil and gas properties. The by-laws of the new corporation permit exploratory drilling. This substantial change in investment objective significantly increases the risk of the investment. Also, it is likely that many investors for whom an investment in the original production program was suitable would not be appropriate investors for a riskier exploration program.

2. Because the original partnership was designed to be an income-generating investment, the partnership agreement did not permit cash from operations to be used to acquire new properties. The new entity is permitted to reinvest cash from operations in new properties, extending the life of the program and increasing risk. In addition, affiliates of the sponsor will receive acquisition fees in connection with investments in new properties.

3. The sponsor converted a 14% interest in income and a 7% interest in liquidation proceeds of the partnership to a 14% share of the new entity's common stock. This represents a step up in the sponsor's interest at the expense of investors.

4. Upon completion of the conversion, the voting power of the sponsor and affiliates increased from 30% to 40% on issues which require majority approval by investors, greatly increasing the sponsor's effective control of the program.

5. The original partnership included strict limitation on borrowing, and prohibited securing loans with partnership property or production therefrom. In contrast to this, the company is not subject to such restrictions, significantly increasing risk. Also, the company is now able to borrow to fund distributions to investors if cash flow proves insufficient, further increasing the risk of the investment.

6. The partnership included strict, state-mandated limitations on the ability of the partnership to indemnify or exonerate the sponsor. In contrast to this, the company's by-laws allow the sponsor to be extensively exonerated and indemnified. This change increases the risk that investors' funds will be used to indemnify the sponsor, and also represents a significant conflict of interest for the sponsor.

7. Under federal tax law the partnership was not subject to federal or state income

taxes; instead each limited partner was taxed on his or her pro rata share of the partnership's taxable income, with losses from the partnership also passing through to the limited partners. In contrast to this structure, the company is subject to state and federal income taxes on its income, and stockholders are subject to federal and state income taxes on distributions of corporate earnings. The company's losses will not pass through to its stockholders. These changes fundamentally alter the nature of the investment as a tax-advantaged vehicle.

8. The costs of the conversion, \$1.8M, were borne by the company. Such costs include the payment of \$500,000 in fees to Dean Witter (\$125,000 if the Conversion had not been approved), and expenses of soliciting consents from and communicating with the limited partners. Even if the conversion had not been completed, all costs and expenses (\$1.4M) would have been borne by the partnership.

9. Limited partners of the partnership had no dissenters' rights or other comparable rights in connection with the conversion.

Beside this transaction, we recently learned that there is a rumor in the financial community that a Seattle-based concern, with over \$500M in investor funds under its control, is preparing a roll-up of its partnerships. On this basis, we believe that abusive roll-ups will continue as they have in the past unless action is taken to curtail them.

As I reported to the House of Representatives in my testimony on the Limited Partnership Roll-Up Reform Act, roll-ups and conversions are a continuing threat to small investors. We understand that the Act has been characterized in some quarters as a piece of "special interest" legislation that would benefit only a few commercial interests. This is not the case. Limited partnership investment programs were designed for and sold to middle class, retail investors. Over 200,000 investors in Massachusetts alone have invested in these programs, and most of these investments are still outstanding. Because partnership investment programs are so widely held and because roll-ups and conversions have proven to be a continuing area of abuse, these transactions have far-reaching ramifications for small investors. This legislation is needed to protect the interests of these investors and to halt the abuses that we have seen.

Sincerely,

MICHAEL J. CANNOLLY,
Secretary of State.

NATIONAL ASSOCIATION OF REALTORS,
Washington, DC, May 20, 1992.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR DODD: On behalf of nearly 750,000 real estate professionals, the National Association of Realtors is pleased to comment on the proposed Limited Partnership Rollup Reform Act.

The National Association of Realtors has long represented real estate investment interests. Our members include, among others, real estate syndicators and limited partners. Because the Association represents such a broad range of real estate interests, we have a strong interest in preserving the credibility of real estate as a viable investment alternative for all market participants. We realize that the rollup issue is not unique to real estate, although many of these partnerships hold real estate assets. We therefore believe that as representatives of the real estate industry it is appropriate for us to comment on the issues of rollup reform.

GENERAL COMMENTS

A confluence of economic events had left many real estate limited partnership sponsors poorly capitalized and managing assets with depressed values. As a result, some general partners have sought consolidation of partnerships through rollups as a means of lowering administrative costs of the partnerships, generating additional capital for the partnerships and offering liquidity to the investors. Due to the severity of the nation's recession and prolonged credit crunch, the National Association of Realtors believes that reorganization is a critical alternative for many real estate limited partnerships. The realities of the marketplace are such that, without some alternatives and changes, some partnerships will fail simply due to lack of capital.

The goal of responsible restructuring should be to offer liquidity and administrative savings to real estate partnerships. Unfortunately, in some cases the costs of restructuring and poorly restructured consolidations, have counteracted any promised benefits. While the Association believes that restructuring should not be prohibited, legislative and regulatory reforms are needed to deal with potential rollup abuses.

Specifically, the National Association of Realtors supports the following provisions included in S. 1423:

Dissenters' rights;
Prohibitions on supermajority voting rights;

The use of plain and understandable disclosure to shareholders; and

More informed communication among limited partners and more time to consider the proposed transaction.

The Association is concerned, however, with the requirement that rollout solicitation materials include the performance data of all comparable rollout transactions. It is unclear whether this requirement refers to all comparable rollups within the market or only to past rollout transactions involving a proposed rollout's sponsor(s). If the requirement is aimed at all comparable rollout transactions, then we believe this may inflict undue burdens on the sponsor(s). If the requirement is aimed at comparable rollups involving the sponsor(s), then we recommend that the language be clarified accordingly.

The National Association of Realtors is pleased to participate in this process, and hopes the observations and suggestions presented in this comment letter are useful in advancing a standard of quality and fairness in connection with limited partnership roll-up transactions.

CONCLUSION

The National Association of Realtors appreciates the opportunity to provide comment on proposed rollout reform. We applaud your endeavors to address the rollout issue and the potential areas of abuse that can occur in such transactions.

As an Association representing a wide variety of real estate professionals, we pledge our continued commitment to the issue affecting real estate limited partnerships. We hope our observations and suggestions will enable you to more effectively accomplish your goals.

Sincerely,

STEVE DRIESLER,
Senior Vice President.

INTERNATIONAL ASSOCIATION
FOR FINANCIAL PLANNING,
Atlanta, GA, May 7, 1992.

Hon. CHRISTOPHER J. DODD,
Chairman, Subcommittee on Securities, Committee
on Banking, House, and Urban Affairs,
U.S. Senate, Washington, DC.

DEAR SENATOR DODD: We understand that your committee will soon be considering S. 1423, the Limited Partnership Roll-up Reform Act. The International Association for Financial Planning (IAFP) strongly supports your efforts to eliminate abusive practices in roll-ups of limited partnerships. You and the other co-sponsors of S. 1423 are to be commended for your commitment to consumer protection.

The IAFP appreciated the opportunity to work with your staff in the development of this legislation. We are pleased that several of our suggestions have been included in this legislation. As the oldest and largest financial planning membership association, we are committed to working for legislation that will benefit the consumer and enhance the professionalism and success of persons committed to the American public achieving its financial objectives.

As you are aware, the Securities and Exchange Commission has issued one new regulation concerning roll-ups of limited partnerships. This regulation addresses many of the problems evidenced by abusive roll-ups; however, it does not provide for an essential element of reform—dissenters' rights. The IAFP believes that provision for dissenters' rights is very important if the individual investor is to be protected from being forced into a business relationship significantly different from that in which he originally invested. Further, the comprehensive rules addressing roll-up abuses currently proposed by the National Association of Securities Dealers only will be put in place if this legislation is adopted.

We believe that limited partnerships should have flexibility in the selection of business forms, including the roll-up option. However, the unfortunate experience has been that many roll-ups have taken advantage of limited partners, many of whom have seen their equity in these investments disappear. This legislation would provide important protection for limited partners, yet permit fairly structured roll-ups to proceed unimpeded.

Therefore, the IAFP is pleased to endorse S. 1423 and urge its swift adoption.

Sincerely,

ROBERT J. OBERST, Sr., Ph.D., CFP,

President.

Mr. DODD. Mr. President, let me emphasize one last point, because there have been some issues raised about whether or not this legislation is needed. It is, in my view, of course, needed because of the slowness of the pace at which the SEC is moving and, frankly, I am fearful that we will leave here without some legislation to underscore the importance of protecting these investors.

Let me make some general observations. Limited partnerships are good investments. I apologize in that I should have said that at the very outset. There are many of these limited partnerships which are very good investments, and people are not being hurt by them at all. They are good investments for people that do not have a great deal of money which they would like to have working for them.

The average investment is around \$8,000 to \$10,000. That may not seem like much to the high rollers, but for a lot of average citizens who are trying to make their money work for them a bit, limited partnerships have been a good investment tool. The people you are doing business with, if you are involved in these partnerships, by and large are good business people who practice good business procedures in dealing with your money.

Unfortunately, there are those who take advantage of people. Many of these rollups, in my view, have been truly harmful. We are not trying to say with this legislation that if you invest in a limited partnership, you are guaranteed a success story. You are taking a chance, as you are with any investment you make. There is no absolute guarantee. I am not suggesting there ought to be. But I also do not believe that if you go into a limited partnership, that you ought to be taken advantage of unfairly in an abusive rollup transaction.

This legislation, I emphasize, is supported by the partnership industry. Normally, you have the regulators and the Congress and the industry at odds with one another. This legislation is supported by those businesses involved in limited partnerships. They want these changes. They have written to us that this is a good idea, something they would support. It is supported by State regulators. They want it done. They believe it is worthwhile. And those organizations that represent the investors in the country support it. This is one of those rare occasions where investors, the industry, and the regulators believe what we have offered here makes good sense.

The problem is that we have a Member or two who object to it. That certainly is their right to do so. But as a result of this, we have had to delay many, many months on getting this legislation before the committee. And now, of course, we have chosen the route of coming directly to the floor of the U.S. Senate with it. But there are 73 cosponsors on this legislation. It has passed the House already. In fact, in the House, it passed on a consent calendar where there was virtually no debate in opposition.

My hope is that today we will be able to pass this legislation, and make it a part of this particular bill and move on to other matters.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas [Mr. GRAMM] is recognized.

Mr. GRAMM. Mr. President, knowing that the floor managers will oppose this amendment as part of their leadership substitute and will, I assume, move to table, I am not going to enter into the prolonged debate that I would were that not the case. I will have an

opportunity, if this amendment should be adopted, to come back after we have dealt with the important pending business, the balanced budget amendment to the Constitution. At that time I can, with a motion such as a motion to recommit, revisit this whole issue. So I am not going to take up the Senate's time this morning with a long discussion. I will have an opportunity to do that later.

Let me first try to explain the problem, and then the parts of this amendment that I support, and then the part of the amendment that I strongly oppose. I would like to outline why I feel so strongly that one of the provisions in this amendment is bad law, that it will hurt American investors, and that it will hurt economic growth.

Here is the problem, Mr. President.

In the mid-eighties we had a very large number of professionals, doctors, lawyers, college professors, enter into limited partnerships. The limited partnership is a vehicle whereby people who have money to invest but who do not have specific expertise can band together and invest funds in a project or an activity in which they do not have to engage in the day-to-day management. Tens of billions of dollars of capital in the American economy have been invested in limited partnerships.

As a college professor at Texas A&M, I was engaged in half a dozen limited partnerships, where people got together, pooled resources, had a general partner who in essence ran the investment, and everybody else put up money and had the ability to make decisions on a majority rule basis.

What happened in America in the mid-eighties is that with inflation collapsing in the early eighties, with a decline in oil prices, with the Tax Reform Act of 1986, a lot of these limited partnerships went bad.

Many of them were highly leveraged with debt. They were based on the acceleration of real estate values. They were based on at least a maintenance of oil prices. In many cases they were based on simply projecting past price changes into the future to develop an expectation.

The net result has been that literally hundreds of thousands of people who invested in limited partnerships, many of them in oil and gas, many of them in real estate in one form or another with the tax change in 1986, with the declining inflation, with declining marginal tax rates that lowered the value of interest deductions, many of these limited partnerships have gotten into deep trouble.

When they have gotten into trouble there have been three options that have been available. In trying to illustrate this whole thing let me take advantage of a little chart. If you are in a limited partnership and the value of the asset declines, you do not have a lot of liquidity in the partnership. But

if you want to get out of it, and you have partners that have invested money and they want to get out of this deal, they really have three things they can do.

One is, they can liquidate the partnership. For example, let us say you had 20 doctors that got together, bought a piece of property in a town. They had a limited partnership with a local realtor to buy this property. They believed the value was going to appreciate and they were going to sell it. And so obviously one of the things they can do is go out in the marketplace and sell the property.

There is a second option they can choose. If they did not want to sell the property, because they did not want to take the loss, but some of the members of the limited partnership needed their money out, one of the options they could do would be to incorporate, to give everybody shares in the property as a corporation. They could go through what would be called a partnership reorganization, where they would turn the limited partnership into a little corporation. Each person would be given shares based on their investment, and those shares would sell in the market, and anybody could go out and sell those shares.

One of the things that is going to happen almost immediately if they take that option is that the market price of those shares is going to show what a bad deal this real estate investment was.

Now what happened in the late eighties and in the last 2 years is that a lot of people who followed this path, many in very large limited partnerships, were shocked by the fact that this real estate, principally real estate, oil and gas, other types of investments, had declined in value so much, especially if they had been leveraged with debts, that the assets of these partnerships were almost valueless.

The last option is to sell your interest to a specialty fund, or what is sometimes called a vulture fund, though this, like the real vulture that we see along the highway, this vulture fund was performing a real service. These are people who specialize in going out and looking at troubled partnerships, buying them at a discount, repackaging them, and remarketing. Those are the three options that were available.

What happened is that when people opted for reorganization, and these stocks went on the market, many limited partners were shocked at how low the values were. There were instances where general partners had not given people the full information. Many of these people were not paying attention to their investment. And so the net result was that there were some abuses, and obviously there was great unhappiness.

The Securities and Exchange Commission and the National Association

of Securities Dealers have now come in and instituted a series of reforms that say that if limited partnerships are going to be reorganized, then they have to follow a set of procedures to give everybody the facts, to let everybody know when they are going to cast this vote, and they set other limits on the action of the general partnership and the majority to protect everybody's rights. Basically, what the SEC and the National Association of Securities Dealers have done is require more reporting and disclosure to give people the facts.

What has happened during this period is that you have had a number of companies, in fact there is a handful of these vulture funds, but there is one large vulture fund that has become very active politically. What they have done is lobbied for a reform that not only would codify what the Securities and Exchange Commission has done, that not only would codify what the National Association of Securities Dealers has done, but that would in fact legislate changes in the rights of the limited partners. And this is a very important point that I am making in terms of why I think this is a bad amendment.

Let me begin with the provisions of the House bill and then discuss this amendment. What the House bill would do is this: Let us say 20 people entered into a limited partnership, and part of the deal was that we each put up \$20,000, and we had an agreement in the contract we signed that said that if the majority of the people decided to take any action to incorporate, sell the asset, to reorganize it, to break it up and sell it, it would be majority rule. We made the investment on that basis.

What the House bill would do in an extraordinary legislative action is it would come in and say that you cannot have majority rule. You may have signed the contract when you made your investment, but the Government knows better than you do. What the House bill does is, it says that if a couple of the limited partners, if a very small number of them, disagreed with the action of the majority, then the majority in order to reorganize the partnership would, for example, have to pay off those few investors.

Let us say you had 20 people that went out and bought a building. What the House bill would say is if you have two people who do not agree with selling the building or do not agree with incorporating, you would have to take a part of a floor of the building and give it to those two people, or you would have to buy them out before the majority could exercise the rights that they were guaranteed when they signed the contract.

Mr. President, that is clearly a breach of contract. What are we doing coming in and saying to people who put up their money, who signed a contract,

that were guaranteed majority rule? We are going to come in and say, no, you signed the contract, you put up your money, but we are not going to let you exercise your rights. If there are 2 people out of the 20 who say no, you have to buy them out before you can take your action.

The problem is actually worse than that, because before you can reorganize one of these limited partnerships, you have to notify everybody that you are going to have the vote. Every State has a listing of all the members of their limited partnerships. So what happens is that one of these vulture funds finds out that there is going to be a vote on reorganizing a limited partnership, and they run to the Secretary of State's office, get the list of the people who are limited partners, and buy a couple of them out. And then they are in a position to say: "Hey, you have to pay us or we are not going to let you reorganize."

The final point I want to make is, where do you think the bulk of the political support and the money comes from for making it so that a small minority can block a limited partnership from reorganizing? Remember that with three options that are available, what in essence this bill would do is preclude one of the three for all practical purposes.

Where do you think the basic funding for the political support for this bill is coming from? It comes from the vulture fund.

Basically, you have a situation where a small number of companies and individuals have gotten busy, put together a trade association, sent letters, gone to the media, got television shows on the subject all to eliminate one of the three options that people have in dealing with a financial problem. If that option is eliminated, limited partners either have to go out and sell the building and take a huge loss, or they have to go to the vulture fund.

Mr. President, let me just quickly summarize, and then the Senate can continue with its business.

I think giving people the facts is very important. I strongly support the reporting requirements in the amendment. The Securities and Exchange Commission has said that this is what is needed to be done. They do not want us to take action on this bill that goes any further. They do not oppose enhanced disclosure, because that is what they have done. But the SEC believes that what they have done will deal with the legitimate problems.

But what this bill would do is that it would abrogate contracts that people have entered into legally in arm's length transactions, where they put up their money based on guarantees they had that they would have the ability by majority rule to take action. What this bill does is it takes that power away from them.

In the House it takes it away from them completely. In this bill, it says, OK, if you do not buy out these minority members who disagree with the majority, and you reorganize, you cannot have your stock traded on a national exchange, NASDAQ, American Stock Exchange, New York Stock Exchange. Mr. President, that clearly violates the constitutional rights of these investors.

Finally, I am alarmed by the lobbying effort behind this bill. I have seen a lot of bad bills come through the Congress. It absolutely astounds me that a small number of people, for all practical purposes, a handful of individuals, who want Congress to act to eliminate one of their two basic competitors as a vehicle for responding to somebody else's financial distress, can become organized, can put together a newsletter, can hire a lobbyist who represents a whole bunch of other people and can, in essence, come to Washington and get a law passed that violates contracts and denies people their rights. I am alarmed that such a group can get Congress to enact legislation that denies people the right to use one of the three options that is available to them under current law, so that there are only two options left and the lobbyists are one of the two surviving options.

I feel very strongly about this bill. I think it is well intended by its Senate sponsors. I do not doubt that those who argue for it believe that it is a good idea. But I am alarmed that we are here debating abrogating contracts. I cannot imagine that we are going to tell investors, who invested their money based on a set of guarantees, that we are going to come in and take those rights away from them. It is simply part of a mentality, that tramples on the rights of the citizenry, that I do not understand.

I am alarmed because of the nature of this action, based on good intentions, inserting a harmful provision in an amendment which is otherwise a good amendment. If we were not abrogating contracts, if we were not limiting the ability of people to exercise their freedom, I would have no objection to this amendment.

But I do not understand why, in today's society, two consenting adults have this almost religious aura of the protection of their rights to do anything except to engage in business and create jobs. Anything consenting adults do we defend with a religious zeal, unless they engage in signing a contract or build a building or trying to create jobs. And if they are trying to do that, we feel that we have the right to come in and say to them we are changing the rules of the game right in the middle because we know better than they know.

Mr. President, I hope that this amendment will be tabled. We are deal-

ing with the managers' amendments that are normally noncontroversial, at least in the minds of the committee.

This is a totally different issue. This is an issue that we have not debated yet in committee. I was there ready to offer amendments. We did not have a quorum available to hear the debate and to vote on it. I think this is something that ought to be dealt with separately. I know that many others disagree with that. But this is something I feel very strongly about and that I intend to oppose vigorously if it becomes part of this bill.

I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. I thank the Chair. I will be very brief. I know the Senator from Missouri is waiting to speak and will shortly do so.

I very strongly support this amendment that is being offered by the Senator from Connecticut and the Senator from Missouri. Unfortunately, I cannot support adding it to the managers' amendment, and so that creates a contradiction, in a sense.

But I want to say, just with respect to the substance of the amendment, it has been pointed out I think there are some 71 or 72 cosponsors of the legislation. We do not usually get much higher than that here in a 100-Member body in terms of cosponsorship of an issue.

So I think it validates powerfully the importance of this issue, the very substantial bipartisan consensus that exists with respect to wanting to correct a major problem out there. I think the overwhelming body of evidence is to that effect. And so I want to see this legislation enacted at some point.

The problem that we have and I have with adding it to the managers' amendment is this: We have a custom and a practice in the Banking Committee that when we—the ranking minority member, Senator GARN, and myself—develop a managers' amendment what we do is we attempt to take any item that is coming from either side of the aisle that can properly go into the bill and which constitutes a balance of items that can go as a whole, as a package, as a so-called managers' amendment. And once we have reached that definition and bring a managers' amendment to the floor, we have a practice in which we stand together to support the managers' amendment, and we do not add or subtract from it because of the fact of the very nature of how we put it together.

So that forecloses me in this situation from being able to vote for the Senator's amendment as an addition to the managers' amendment. Were it to be offered at some other time in the bill in a different fashion, not as part of the managers' amendment, then I think that is a different situation, and it certainly would free me up.

So I want to make it very clear that I think on the substance of this amendment what the Senator from Connecticut and the Senator from Missouri and others have supported, including myself, is sound public policy. I regret that I think it is not appropriate to add it here now as part of the managers' amendment under the circumstances that apply and very particularly for myself having put that managers' amendment together with the Senator from Utah, as I have.

So I will be voting to table, although I strongly support the substance of the amendment.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Missouri [Mr. BOND].

Mr. BOND. Mr. President, I am pleased to rise to support this amendment to the GSE bill offered by my colleague from Connecticut. As has been noted already, we have tried twice in the Banking Committee to have a markup, discuss, debate, and approve or disapprove the limited partnership rollup measure. Twice we have been unsuccessful. I think this is the right opportunity to raise this important issue because, unfortunately, it appears that this may be our best and only opportunity to discuss, debate, and to vote on this protection for limited partners.

It is essential. It is timely. It is extremely important to many limited investors, limited partnership investors in my State and across the country.

Last year we introduced S. 1423 to help curb the abuses of limited partnership rollups, and last year 300,000 limited partners were rolled up. Proposed rollup transactions have been reduced because of the discussion and debate over this issue and the concerns about it, but the practice is far from over.

There are currently 8 rollup proposals pending at the SEC, potentially affecting some 170,000 investors across this country. This means there are 170,000 people out there who are running scared of being rolled up and consequently made to lose what has been on the average some 63 percent of their investment.

These people are not so-called special interest groups. They are mostly middle-class Americans who have invested in limited partnerships for their retirements, for their children's education, and for other purposes. My State of Missouri has over 163,000 of these limited partners. They each have an average investment of \$10,891. That means that Missouri alone has almost \$1.8 billion invested in limited partnerships.

These are not trifling numbers we are dealing with. These people need to be protected.

The Missouri commissioner of securities recently wrote to me before the last committee markup and voiced his

support for S. 1423. He wrote—and this is from John Perkins, commissioner of securities:

In my capacity as Commissioner of Securities for the State of Missouri, I am writing to express my support for S. 1423, the "Limited Partnership Rollup Reform Act," now pending before the Senate Banking Committee.

The Committee has compiled convincing evidence that the limited partnership roll-up process is urgently in need of federal overhaul so as to curb abusive practices on the part of some roll-up sponsors and to restore to limited partners the opportunity for meaningful and informed decision-making. It is my view that the solution to this problem may be found in S. 1423. This legislation is a carefully-crafted and narrowly-drawn package that goes straight to the heart of the worst of the current roll-up abuses.

Key provisions of the proposed measure recognize for federal regulatory purposes the important distinctions between roll-up transactions and the more traditional corporate restructurings for which the federal securities laws originally were designed. It is appropriate that adjustments be made to the federal rules and regulations governing the roll-up process—as contained in S. 1423—in order to remedy the pervasive investor abuses in these transactions and to restore investor confidence in these markets.

Specifically, I support the following reforms included in S. 1423:

Dissenters rights;
Prohibitions on "supermajority" voting rights;

Restrictions on increased fees and compensation to the general partners sponsoring the roll-up;

More meaningful and understandable disclosure to limited partners facing a roll-up;

More informed limited partner decision-making through permissible communication among limited partners, access to limited partner lists and more adequate time in which to consider the proposed roll-up; and

Independent fairness opinions and appraisals.

The extensive review conducted by the Banking Committee and its Securities Subcommittee of limited partnership roll-ups has provided abundant documentation as to the abuses suffered by limited partners caught in the cross-fire of these transactions. This is a major problem area today in investing and it cries out strongly and insistently for swift action on the part of Congress. Accordingly, I respectfully urge the swift adoption of all the elements of S. 1423.

The commissioner is not the only person in Missouri from whom I have heard supporting this legislation. A doctor from St. Peters, MO, wrote to me in March this year:

I personally have had the misfortune to be involved in 2 rollups in which I lost a substantial amount of my investment, even though I voted against the rollups in both instances. I had absolutely no recourse, no way to protect myself. I do not think that general partners should be able to take my investment, make an enormous fee, and reduce the value of my investment by 65 to 80 percent.

A financial planner from Chesterfield, MO, wrote last September:

Many of my clients have lost literally thousands and thousands of dollars because their limited partnership investments have been rolled up. Even though they voted

against their respective rollup, they found they had no choice. The worst yet, is that their partnership had to pay fees for the roll-up, which they voted against. Does this seem fair to you?

The answer to that question, very simply, is "No." It does not sound fair to me. I think this rollup reform legislation is essential to protect investors like these from abusive rollups.

The SEC has taken an important first step in beefing up the disclosure requirements, but more needs to be done. Most important, these investors need dissenters' rights and proxy reforms in order to be adequately protected. I believe by implementing this legislation we will be relieving some of the fears of these limited partners, that they have no other choice but to be rolled up.

It has been argued that this legislation would somehow rewrite the terms of the original partnership agreement. Ironically, it has been the attempts by general partners completely to rewrite the original terms of these limited partnership contracts that created the need for this legislation in the first place. These rollup transactions have been a classic bait and switch scam. Investors who made an investment based on one set of terms have ended up with a completely different investment on much different terms after a rollup. Investors who agree to participate in a partnership with one group of assets ended up in a partnership with a completely different set of assets. Investors who agreed to participate in a partnership ending in 7 to 10 years ended up in a partnership that lasts forever. Investors who agreed to a contract which assured general partners would be paid based on the performance of the partnership ended up in a partnership where their general partner got paid first, despite declines in asset values, through the fees connected with the rollup. Investors who agreed to a contract where limited partners had most of the voting power ended up in a partnership where the limited partners had very little—virtually no voting rights at all.

The legislation does not rewrite the terms of the original partnership contract. Indeed, it helps keep the original contract intact.

I have also heard over and over again that the bill mandates dissenters' rights. This is simply not true. The bill requires the exchanges to determine how best to protect the rights of limited partners, including dissenting limited partners. The exchanges may or may not choose to require dissenters' rights as part of its listing standards. It is certainly not mandated by the legislation.

But I want to remind my colleagues that dissenters' rights are available to corporate shareholders in virtually all the States. There is no reason why the exchanges should be foreclosed from

providing this protection to investors in limited partnerships.

The national securities exchanges have traditionally used their listing standards to provide a basic level of protection to investors in securities traded on their exchanges. This bill is consistent with that approach, by requiring the exchanges to consider and adopt standards for protecting the rights of investors in limited partnership securities. Indeed, some of the exchanges have already proposed changes to listing standards as the result of abusive rollup transactions.

The SEC has also used its authority under the Federal securities laws to ensure that listing standards protect the rights of investors. For example, the SEC sought to prevent the stock exchanges from permitting transactions that would have reduced the voting rights of existing stockholders even if the transaction was approved by the stockholders. Just as with rollups, those transactions sought to fundamentally rewrite the terms of the original contract between the corporation and its shareholders.

Contrary to what some may believe, I think that future investments in limited partnerships will be stimulated if the limited partners' potential investors know they will have some rights, some recourse in the face of a proposed rollup.

This should not be a controversial issue, Mr. President. The fact that 71 colleagues have sponsored this legislation indicates that there is broad-spread support for this measure.

If anybody has any questions about the need for this legislation, I urge them to do what I have done: Contact the commissioner of securities in your State. Is it a problem in your State? Are there limited partners who are faced with losing a significant portion of their investment and their voting rights by proposed rollup transactions?

I think you will find the securities commissioners support it. I think you will find there are significant numbers of limited partnership investors in each of your States who would be adversely affected by rollups, if they are not given some kind of protection.

What we are seeing is a new version of a cram-down in the bankruptcy courts, but this is called a rollup of limited partnership assets. This is our chance to act quickly to put a stop to abusive rollups. The investors need help, and I urge that my colleagues support this amendment and help us enact these basic protections into law.

I yield the floor.
The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, I ask unanimous consent that the list of all of our cosponsors, all 73 in the Senate, be printed in the RECORD at this particular point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1423 Sponsorship Status, June 23, 1992

DEMOCRATS

Dodd, Riegle, Bryan, Dixon, Graham, Sanford, Sarbanes, Wirth, Kerry, Cranston, Sasser, Shelby, Mikulski, Robb, Leahy, Inouye, Simon, Johnston, Wofford, Lieberman, Levin, Metzenbaum, Fowler, Akaka, Hollings, Pryor, Baucus, Heflin, Kohl, Adams, Gore, Pell, Kerrey, McCain, Harkin, Burdick, Wellstone, Glenn, Bingaman, Breaux, Bentzen, Nunn, Bradley.

REPUBLICANS

Bond, D'Amato, Kassebaum, Domenici, Mack, Brown, Seymour, Cohen, Burns, Smith, Craig, Jeffords, Stevens, Packwood, Lugar, Lott, Coats, Kasten, Symms, Murkowski, Rudman, Warner, Conrad, Grassley, Chafee, Durenberger, Nickles, Danforth, Pressler, Simpson.

Total Senators sponsoring: 73.

Mr. GRAHAM. Mr. President, I wish to add my support for prompt adoption of Senator DODD's amendment to S. 2733 which would facilitate changes to regulations regarding limited partnership rollups.

In a limited partnership reorganization, or rollup, general partners merge several limited partnerships from fixed holdings into exchange-traded infinite life investments. This means that the investment constantly reinvests its proceeds from asset sales, and the limited partners do not receive their portion of the proceeds as originally agreed to. Rollups have been estimated to cause the value of the investment to drop an average of 69 percent.

Often a limited partnership is rolled up with little knowledge or understanding by the limited partners, because the proxy statements are lengthy and confusing, there is no one from whom the investor can seek unbiased advice, and votes may be reduced in value when the rollup is considered by all the partners.

Of the 11 million limited partners nationwide, 8 million are small investors with an average investment of \$10,000. I have received hundreds of letters in the last several months from Floridians calling for this reform legislation to be passed by Congress. In Florida alone, there are an estimated 447,920 limited partner investors, with the average investment of \$12,322, and an overall investment amount of \$1,224,568,994.

As one of over 70 cosponsors in the Senate, I believe it is time to move this legislation which requires early, complete, and understandable disclosure to limited partnership investors solicited in rollup transactions. In addition, this amendment allows communication between investors wishing to oppose a rollup; removes the present incentive for brokers and market professionals to pressure investors into a rollup and provides investors with an alternative to the rollup so that they are not forced into an investment against their wishes.

I am supportive of Senator DODD's amendment and am hopeful of its prompt adoption.

Mr. HARKIN addressed the Chair.

Mr. DODD. Mr. President, let me commend my colleague from Missouri for his statement. It was an excellent statement. He very clearly has identified the issue. I particularly want to pick up on the last comment he made. I think it is worthwhile.

There may be some people here who have not followed this legislation over the last couple of years, but if they are wondering whether or not this is worthwhile, I think the suggestion of the Senator from Missouri is an excellent one: Call you commissioner—or whatever the proper title is in your State for the person responsible for these particular securities regulations—and you will get, I think, a very clear and convincing response.

I might further suggest if you have any questions from the business side, call the people involved in this business. They support it as well; not to mention, of course, the organizations representing investors.

I mentioned earlier the prospectuses that came out. This is one of them, Mr. President. This is 700 pages long. For a \$10,000 investment, you are supposed to read and understand what is included here. I realize this may not be the appropriate bill. But as the Senator from Missouri pointed out, we do not have many appropriate bills left, and this is one that is available to us to try and get something done on this legislation.

But talk to the 8 million investors in this country, with the average investment of \$10,000, and tell them to look at this and read it and see if they can understand it. Most of them cannot. This is needed legislation.

Unfortunately, we were not able to bring it up under the proper circumstances because the rules of the Senate allow individuals to object. So we are left with this opportunity this morning and my hope is we will adopt it as part of this legislation. The House, almost unanimously supported the legislation. Here is a chance for the Senate to do something.

There are 8 million limited partnership investors across this country. There are about 150,000 in my State alone who are involved in these limited partnerships. There have been tremendous abuses.

My colleague from Texas said there is just a handful of people—special-interest groups—supporting it. Here are some of the letters I have received, literally dozens of them here. I will not ask that they be printed in the RECORD, because it would take too much space.

But this is not just some handful of people. There are literally thousands of people in this country who have lost their life savings. Here is a chance to do something about it. We will not have another chance between now and

November, or between now and when we adjourn.

So unfortunately this may go down. We will keep trying, I suppose. But here is a very modest attempt to deal with a piece of legislation that can make a difference.

Mr. President, let me also address the issue of contract rights that was raised by the junior Senator from Texas. This is a red herring, if I ever heard of one. What we are talking about is a new entity here, a rollup. A limited partnership is one thing; a rollup is another. So I want to make sure that people understand what we are talking about is a changed set of circumstances when a rollup occurs.

As a technical and legal matter, Mr. President, we are not touching the original partnership agreement with this legislation. The original partnership agreement remains intact. We are simply saying that when rollup securities are listed on an exchange or on NASDAQ, that they must meet certain standards for protecting limited partners.

We are not touching the limited partnership. But if you want to list on those exchanges, you have to meet certain standards. That is what we are asking. We are saying you do not have a right to list on a national securities exchange or on the NASDAQ unless you can provide certain basic protections for those limited partners.

I also would point out that if you want to focus on the fine print in the limited partnership agreement, which apparently the junior Senator from Texas does not—but if you would look closely at those partnership agreements, it is only fair to say that when the investors bought their original limited partnerships, the offering statement set forth a number of rights for the limited partners that are severely reduced as a result of the rollup that occurs later. Those rights are being abrogated. What about their contract rights? Let me focus on just a few of them, if I can; what investors expected.

They are told they can expect a finite life investment—that after 8 or 10 years, the assets would be sold and the proceeds would be distributed to them. That is changed when that investment ends up in one of these rollups. But I do not hear anyone saying anything about contract rights being changed for the investor in that particular case.

Investors expected that the limited partners would be paid first. The limited partnership agreement said investors would have a priority over the general partners. That is used as one of the attractive features of limited partnerships.

That, of course, gets changed in the rollup. After the rollup, investors no longer get paid first. In most cases, as a result of a rollup, the general partners have been able to take large equity interests and huge fees with no equity investments on their part at all.

Third, Mr. President, investors expected that they would have certain voting rights; that a majority of limited partners would be able to remove the general partner, or to call a meeting to liquidate the partnership. That, of course, is changed when the rollup occurs. But I did not hear my colleague talk about the contract rights being violated once you ended up with this new entity.

Many of these original limited partnerships had very strict prohibitions against conflicts of interest on the part of the general partners. In many rollups, those protections are taken away. And in many of these deals, management is able to engage in transactions with affiliates, with large fees paid to those affiliates. Those are fees that come out of the pockets of the investors.

In fact, in most rollups, it is the general partners whose rights are increased as a result of the rollup, and limited partners have their rights reduced. So you went into the limited partnership with one set of guarantees, but once the partnership is rolled up, you have a different set of rights, and in most cases, the investor is the loser. They are the losers.

All we are trying to do here is to protect against those abuses. That is all. I want to emphasize again, most of these limited partnerships are good investments. Most of these managers do a very fine job. But unfortunately, there are those who abuse the system, and that is what is occurring here. We are just trying to change it.

That is why there are some 73 co-sponsors. That is why State securities commissioners support this legislation. That is why the business community does, as well. They know abuses are occurring. They want it changed, as well. They are being hurt by this because there are those who take advantage of innocent people. They get hurt when they are trying to engage in sound business practices, and that is why it is important that we get this done.

Even those investors who vote against a rollup, who make their way through the disclosure documents, weighing 3 or 4 pounds, as I have shown already—here is one of them—even those investors who voted against rollups have had, again and again, bad deals crammed down their throats. That is what this is all about.

Mr. President, I have received hundreds of letters, as my colleagues have, from investors. But none of them have said, "Please, Senator, don't change the law to prevent abusive rollups, because you are changing our contract rights." They have asked us to change the law to protect their rights. They aren't asking for a guaranteed return on their investment, but basic rights.

I say to my colleagues today, do not tell me we are changing the terms of a contract. We are modifying the law a

bit to see that investors are protected when the arrangements they originally went into are changed. And that is what a rollup does.

So, Mr. President, I urge the adoption of this amendment. I believe it is a sound amendment. It is one that a lot of work has gone into. We have had long hearings on this. We have been through it twice already in the committee. We have been very patient. We sat around the other day for several hours trying to mark up the bill, but, as the Senator from Texas has a right to do, he demanded that a full quorum be present during a markup.

Now, usually, as a normal practice here, that is not insisted upon because everyone knows how difficult it is to maintain a full quorum during an entire markup. But he has the right to insist upon it, and he insisted upon that right, and we could not keep a quorum in the committee. As a result, we were not able to complete the markup, and that is the reason we are here today because we have no other choice.

I hope, for the 8 million investors in this country, as I said, with an average investment of \$8,000 to \$10,000—many of them by the way are seniors. It is their only investment, Mr. President. What we are trying to do is to give them some modest protection for that kind of an investment. And here they are expected to understand a 700-page document. You would have to hire a 40-member law firm to read through this to understand it. This is how they get taken to the cleaners; how these deals get jammed down their throats, and they are asked to pay a price. All we are trying to do is give them some modest protection. So I urge the adoption of this amendment.

Mr. President, I yield the floor.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, the Senator from Connecticut has outlined the procedural situation and what did take place in the Senate Banking Committee. I have been a Member of this body for nearly 18 years, and I certainly fully understand the rules and the rights of my colleagues. But on the other side of that coin is where the chairman and I have been very patient and have tried to put this GSE legislation together for 2 years—2 years we have been patient. We have worked with a lot of different parties to try to craft a bill that would be acceptable and protect some \$900 billion in these Government-sponsored enterprises.

As I spoke yesterday in my opening statement about this, although there is not a guarantee of these funds, there are a lot of people who think there is, there is an implicit guarantee, and no one wants a repeat of the S&L crisis. So I do not want anybody to misunderstand that this GSE bill, although a lot

of people say, what are GSE's, does not make it any less important. This is a very important bill. I wish it were possible for us to go through and consider the GSE bill on its merits without extraneous amendments.

Now, again, I recognize the rights of my colleagues to offer this amendment, balanced budget amendments, all sorts of other amendments. That is their right under the rules. But I want everybody to understand the importance of this GSE bill and why the chairman and I made an agreement on the managers' amendment that we would resist all amendments to it for that very reason, to protect the integrity of this bill and its importance for \$900 billion, to make these enterprises more safe and more sound so, again, we do not have a repeat of the S&L crisis.

So although I agree that there is a need to do something about the rollup situation, I do not disagree with my colleague from Connecticut, I do have some disagreements in substance; there are some changes I would like to see in that bill, and if it came to the floor separately I would try to work some of those changes out, say that I think it could be improved. But under the circumstances of the chairman and I trying to move this GSE bill and now having all sorts of nongermane amendments offered to it, if there is no further debate, I would—

Mr. RIEGLE. If the Senator will yield for 1 minute, I want to add a comment to his and underscore something he said. I want to stress to colleagues the importance of this GSE legislation. As the Senator from Utah has just pointed out, we have \$900 billion in outstanding commitments through Freddie Mac and Fannie Mae. What this legislation is designed to do is to strengthen the capital standards that underpin these two massive organizations. We have brought a bill to the floor to do that at the specific direction of the Senate itself, because the Senate earlier passed a sense-of-the-Senate resolution instructing us to take precisely this action, and we have done so.

It has taken us many months because we have held hearings. We have listened to all interested parties. We have considered all points of view. And we have drafted legislation that provides a stronger capital structure for these GSE's, which I think is very important we put in place, particularly so after the experiences we have had in the financial industry generally with banks and savings and loans. We need to have a stronger capital structure in place and a stronger regulatory apparatus in place. We accomplish that in this legislation.

Additionally, there is another very important part of it. We also help direct a large percentage share of this stream of capital in the direction of home mortgages for lower-income peo-

ple in America. And those are people today who are trying to climb up the economic ladder rung by rung and in many cases are finding it difficult to secure mortgage lending so they can buy a house.

We all know that for people who are trying to get ahead financially, those who finally acquire an asset base, it usually comes in the form of being able to buy a house and begin building equity in home ownership. We increase the share of this flow of capital going to people, particularly in inner city areas.

We know from the problems we have seen in Los Angeles and other places it is very important that we get more of a flow of capital moving into these inner city areas where people can have access to mortgage credit so they can buy homes, become homeowners, and establish an equity stake in that fashion. It makes for stronger, more stable neighborhoods, more secure neighborhoods.

That is the second fundamental purpose to this legislation. We make a measurable increase in the flow of home mortgage capital to lower-income people in this country. They still have to qualify. They still have to meet the other standards. But then they are going to have more access to home mortgage loans.

So the stronger capital standards on the one hand, the greater flow of capital into these neighborhoods that really need more capital investment in terms of home mortgages, these are the two central purposes. Frankly, we ought not to let this legislation go down because there is an effort to try to add to it other proposals that may, in fact, be meritorious in their own right, as clearly I think this amendment is, as I have stated before. But to try to load it now on this legislation I think clearly jeopardizes the likelihood that we can get this legislation passed.

If we do not pass the underlying bill, which we have been charged to do, then I think we leave a greater measure of risk out there in the financial system. Taxpayers, in fact, are on the hook standing behind, if you will, the \$900 billion worth of outstanding credit obligations that are there, and we will also forego the opportunity to get some capital and some oxygen down into those inner city areas that desperately need it.

So let us not lose this bill at this point. This is an important piece of legislation that is directly in the public interest.

Mr. DODD. Will my colleague yield?

Mr. RIEGLE. Yes, of course.

Mr. DODD. I appreciate it. I thank both of my colleagues for their patience on this. And I appreciate the difficulty both of the Senators have to operate under as the chairman and ranking minority member of the committee. I want to express my apologies. I

would have much preferred to bring this out free standing. I tried, as I think both of my colleagues understand. We had an objection. The full quorum for a committee markup was insisted upon, and, as a result, it was virtually impossible, de facto impossible, for me to move the legislation.

I understand the importance of the GSE legislation. I commend both Senators for it. But I have to tell Senators as well, when I see lender liability, money laundering, RTC statute-of-limitations extension, these are not exactly just GSE related issues. We are dealing with some other issues here, and I appreciate the agreements that get struck, but nonetheless we have legislation with 73 cosponsors, 17 members of the Banking Committee. There are a lot of these proposals here that did not even come close to that kind of support institutionally. Because of one Member, who can exercise his rights, a very important piece of legislation affecting potentially 8 million people in this country and \$130 billion of investments—it seems to me something with that level of support, supported by the industry, supported by State regulators, supported across the board, we ought to try to accommodate them.

But I appreciate the difficulty in offering it. I wanted to make the point here that this managers' amendment includes a lot of other issues that are not just GSE matters.

Several Senators addressed the Chair.

Mr. RIEGLE. If I may just for a moment, and then I will yield, the Senator is quite right in what he says. He has been most diligent, along with his cosponsor from Missouri, in pushing the issue through the committee. I have been very supportive of that.

We were denied a quorum at the time that we needed to have one in order to be able to report the bill out, and objection was filed by one Member. So the process was thwarted at that point, notwithstanding the fact there are some 72, 73 cosponsors of the legislation, including myself.

But I have to add in addition to the point I made before, and the point the Senator just made. That we have in this managers' amendment by consent on both sides of the aisle other items that I have not mentioned that I think are absolutely vital. And the extension of the statute of limitations for people who engage in the savings and loan fraud, for example, is a tremendously important provision. That provision is in here.

We have to be very careful that we do not sink this legislation because if we sink the legislation we are going to sink that provision. That is part of the managers' amendment. It is a very, very important and valuable provision in that package.

There are some people who do not want that. There are some people who

would like to see that go down. I know the Senator from Connecticut wants it in there, as do I. But there are others who would just as soon find some way to sandbag this whole piece of legislation so that that one item in the managers' amendment goes down the drain.

It needs to be in there. It is in there for a reason. So I think again we have to be very mindful that, under the parliamentary situation we find ourselves in, we run the risk of sending this whole package down the drain, not only the GSE legislation, which is very important in its own right, and the main purpose that we are here, but also other items in the managers' amendment that I think are vital elements of public policy and may be the last chance we will have this session to get them through.

I realize that is the argument that the Senator from Connecticut makes, but there are times when we may be able to accomplish eight objectives simultaneously and not be able to add the ninth without losing all nine. That is the situation that I think we find ourselves in.

There is one other item that is in there, which is very important to the Senator from Connecticut. That is the Presidential Insurance Commission. That is in there, because the Senator argued strongly and persuasively for that. I have supported that. It is in the legislation. If this bill carries on through, that will take effect. And again, the risk we run in terms of possibly losing the entire underlying bill is to lose the managers' amendment in which that item is present, which the Senator from Connecticut is the lead person on.

So I know we are always torn with these conflicting objectives here. But I want to say again that this legislation as a package, as it is now on the floor, is vital public policy. If we lose it all by reaching for one more thing, we will not have gained; we will have lost.

Mr. DODD. Mr. President, I ask unanimous consent that a section-by-section analysis of the Dodd-Bond amendment to S. 2733 relating to limited partnership rollup reform be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

DODD/BOND AMENDMENT TO S. 2733—SECTION-BY-SECTION ANALYSIS OF THE LIMITED PARTNERSHIP ROLLUP REFORM ACT

SECTION 1. SHORT TITLE.

This section sets forth the short title of the Act, the "Limited Partnership Rollup Reform Act of 1992."

SECTION 2. REVISION OF PROXY SOLICITATION RULES AND DISCLOSURE WITH RESPECT TO PARTNERSHIP ROLLUP TRANSACTIONS.

This section adds a new Section 14(h) to the Securities and Exchange Act of 1934 to require that the SEC adopt, pursuant to its existing authority under Sections 14(a) and 14(d) of the Exchange Act, special proxy solicitation and tender offer rules to apply to limited partnership rollup transactions.

Communications among security holders

New section 14(h)(1)(A)(i) would require the SEC to adopt rules to permit holders of securities in a proposed limited partnership rollup transaction to engage in preliminary communications with other limited partners, for the purpose of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction. Under the SEC's current proxy rules, limited partners (like security holders generally) may not engage in preliminary communications that constitute a solicitation with more than 10 or more limited partners, unless they file soliciting material with the SEC. The Committee heard testimony that, given the complicated nature of rollup transactions, limited partners have sought to communicate with each other to obtain information and determine whether to oppose a pending rollup. This section would clarify that limited partners may communicate with each other without being in violation of the SEC's proxy solicitation rules. SEC rules relating to fraudulent, deceptive or manipulative acts or practices would continue to apply. This section is not intended to affect the SEC's current rulemaking proceeding relating to communications among corporate shareholders and other security holders, including limited partnership investors. If, at the completion of the SEC's proceeding, security holders are given broader flexibility to communicate with each other, limited partnership investors would enjoy those rights also.

Securityholder lists.

New section 14(h)(1)(B) would require the SEC to adopt rules to require the issuer to provide limited partners involved in a rollup transaction a list of names of other limited partners involved in the proposed transaction. The SEC would determine, by rule, the terms and conditions under which lists would be furnished. This responds to concerns that, in the past, general partners have withheld from limited partners the names of other investors, in order to prevent them from organizing to vote against a rollup transaction. This new section would enable investors to get the information they need in order to communicate concerns related to the proposed partnership rollup transaction to other limited partners. This section is not intended to affect the SEC's pending rulemaking proceeding relating to access to security holder lists by corporate and other security holders, including limited partnership investors.

Differential compensation.

New section 14(h)(1)(C) would require the SEC to adopt rules to prohibit compensating any person soliciting proxies, consents, or authorizations from securities holders concerning a limited partnership rollup transaction: (i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or (ii) if such compensation is contingent on the transaction's approval, disapproval, or completion. This section would address the conflict of interest that arises if a person (for example, a broker-dealer or proxy solicitor) is soliciting proxies and being compensated for the delivery of a specific outcome, generally, approval of the proposed partnership rollup transaction. NASD rules implemented in 1991 prohibit NASD members from accepting compensation based upon the outcome of a transaction. This section would close a potential gap in the NASD rules and apply this prohibition to nonmember proxy solicitors as well.

Full and fair disclosure.

New section 14(h)(1)(D) requires SEC rules related to specific limited partnership rollup disclosure. These provisions generally codify SEC rules promulgated in 1991 requiring clear, concise and comprehensible disclosure in the following areas:

(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed partnership rollup transaction from each of the original limited partnerships;

(ii) the conflicts of interest, if any, of the general partner;

(iii) whether it is expected that there will be a significant difference between the exchange value of the limited partnership and trading price of the securities to be issued in the partnership rollup;

(iv) the valuation of the limited partnership and the method used to determine the value of limited partners' interests to be exchanged for the securities in the partnership rollup transaction;

(v) the differing risks and effects of the transaction for limited partners in different partnerships proposed to be included, and the risks and effects of completing the transaction with less than all partnerships;

(vi) a statement by the general partner as to whether the proposed rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and a description of alternatives to the partnership rollup transaction, such as liquidation;

(vii) any opinion (other than an opinion of counsel), appraisal, or report that is prepared by an outside party and that is materially related to the rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal or report; the method of selection of such party and material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements; and the basis for rendering and methods used in developing the opinion, appraisal or report; and

(viii) such other matters deemed necessary or appropriate by the SEC.

This section also requires that the soliciting material include a clear and concise summary of the limited partnership rollup transaction, with the risks of the transaction set forth prominently in the forefront of the summary.

Minimum offering period.

New section 14(h)(1)(E) provides that SEC rules require that all shareholders have at least sixty calendar days to review a limited partnership rollup transaction disclosure document, unless a lesser period is required under state law. Due to the complex nature of rollup transactions, witnesses testified that solicitation materials and other disclosure documents are lengthy and complicated. The overwhelming majority of those invested in limited partnerships are individual investors, who may need an extended period of time to review and analyze the proposal, communicate concerns, and offer alternatives. This provision gives them additional time in which to conduct their review, unless applicable state law mandates a lesser period of time.

Exemptions.

New section 14(h)(2) would give the SEC broad authority to exempt by rule or order securities, transactions and persons or classes of persons from the requirements imposed pursuant to new section 14(h)(1) and from

paragraph 4, which defines limited partnership rollup transactions. It is intended that the SEC use this authority to exempt those transactions that do not involve the potential for abuses of the kind that led to development of the legislation.

Effect on commission authority.

New section 14(h)(3) states that nothing in the bill shall be construed to limit the SEC's authority under subsections (a) or (d) of section 14 of the Exchange Act or any other provision of the securities laws or to preclude the SEC from imposing, under subsection (a) or (d) or any such other provision, a remedy or procedure required to be imposed under this subsection.

Definitions.

Section 14(h)(4)(A) defines the term "limited partnership rollup transaction" to mean a transaction involving the combination or reorganization of limited partnerships, either directly or indirectly, where some or all investors in the limited partnerships receive new securities or securities in another entity, but it provides exceptions for certain kinds of private transactions or other transactions in which the protections of the Act are not called for. In addition, new section 14(h)(4)(b) defines the term "limited partnership rollup transaction" to include the reorganization of a single limited partnership in which some or all investors receive new securities or securities in another entity, if the transaction meets certain specified criteria in the bill.

Transactions involving the combination or reorganization of multiple partnerships.

Transactions involving multiple partnerships defined as "limited partnership rollup transactions" are covered by the bill in Section 14(h)(4)(A), with the exception of the following:

(i) a transaction in which the limited partnership securities already trade on a national securities exchange or on the NASDAQ/National Market System (and, therefore, have met specific listing requirements and can be sold readily on a liquid market);

(ii) a transaction involving issuers that are not required to register or report under section 12 of the Exchange Act both before and after the transaction;

(iii) a transaction in which the securities are not required to be registered or are not registered under the Securities Act of 1933 (for example, private placements, Regulation D offerings, securities issued in bankruptcy proceedings, certain exchange offers);

(iv) a transaction where there will be no significant adverse change to investors in voting rights, the term of existence of the entity, management compensation, or investment objectives; or

(v) a transaction where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

The phrase "directly or indirectly" is intended to make clear that multiple or step transactions that are meant to circumvent the purposes of the legislation would be included in the definition of "limited partnership rollup transaction." However, if one or more partnerships convert to corporate form in full compliance with the legislation, a subsequent unrelated merger of the corporations would not trigger the provisions of the Act.

The reorganization of a single limited partnership.

Transactions involving a single limited partnership meeting the definition of "lim-

ited partnership rollup transaction" are covered by the legislation if they meet all of the criteria set forth below. These criteria are intended to parallel the exemptions applicable to multiple-partnership transactions.

(i) the securities issued in the transaction are traded on a national securities exchange or on the NASDAQ/National Market System (and, therefore, exempted from state securities registration and review);

(ii) the limited partnership securities are not exchange-traded or traded in the NASDAQ/NMS;

(iii) the issuer is a reporting company under section 12 of the Exchange Act both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act;

(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

(v) investors are not provided an option to retain a security under substantially the same terms and conditions as the original issue.

Exclusion from the definition:

New section 14(h)(5) excludes from the definition of limited partnership rollup a transaction involving a limited partnership or partnerships having an ongoing operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing or refinancing of assets, in accordance with such criteria as the SEC determines appropriate. This exclusion codifies the SEC's exclusion from its rollup disclosure rules of transaction involving partnerships that are not "finite-life" entities. In these kinds of reinvesting partnerships, investors typically expect that the partnership will be an ongoing reinvesting business operation, and have not relied upon the expectation that the partnership would be dissolved within a given period of time and cash distributed to limited partners. This exclusion would apply, for example, to a "clean up" transaction in which partnerships of this nature are converted to corporate form in anticipation of an initial public offering, or a transaction involving an ongoing concern which reinvests proceeds and that is set up as a partnership but is seeking to convert to a corporation or trust.

Schedule for regulations.

This section requires that the SEC adopt regulations within 12 months of the enactment date.

SECTION 3. RULES OF FAIR PRACTICE AND LISTING STANDARDS IN ROLLUP TRANSACTIONS.

Section 3(a). Registered Securities Association Rules.

This section amends Section 15A(b) of the Securities Exchange Act of 1934. It requires that the rules of a national securities association (for example, the NASD) to promote just and equitable principles of trade include rules to prevent members of the association from participating in any limited partnership rollup transaction that does not provide procedures to protecting the rights of limited partners, including—

(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

(B) the right not to have their voting power unfairly reduced or abridged;

(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

"Dissenting limited partner" is defined to mean a holder of a beneficial interest in a limited partnership who votes against the transaction and complies with procedures established by the NASD to assert dissenters rights.

Section 3(b). Listing Standards of National Securities Exchanges.

This section amends Section 6(b) of the Securities Exchange Act of 1934 to prohibit an exchange from listing any securities resulting from a rollup transaction unless such transaction provides for protections for limited partners as set forth in Section 3(a) of the legislation for registered securities associations.

Section 3(c). Standards for Automated Quotation Systems.

This section amends Section 15A(b) of the Securities Exchange Act of 1934 to require that the rules of a national securities association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security designated by the SEC as a national market system security resulting from a rollup transaction unless such transaction provides for protections for limited partners as set forth in Section 3(a) for registered securities associations.

Section 3(d). Effect on Existing Authority.

The amendments made by this section shall not limit or preclude the authority of the SEC, a registered securities association, or national securities exchange under the Securities and Exchange Act of 1934 from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

Section 3(e). Effective Date.

The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

Mr. GARN. Mr. President, I move to lay the amendment on the table and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah to lay on the table the amendment of the Senator from Connecticut. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Carolina [Mr. SANFORD], is necessary absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 10, nays 87, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—10

Craig	Gramm	Thurmond
Dole	Mack	Wallop
Garn	Riegle	
Gorton	Symms	

NAYS—87

Adams	Durenberger	McConnell
Akaka	Exon	Metzenbaum
Baucus	Ford	Mikulski
Bentsen	Fowler	Mitchell
Biden	Glenn	Moynihan
Bingaman	Gore	Murkowski
Bond	Graham	Nickles
Boren	Grassley	Nunn
Bradley	Harkin	Packwood
Breaux	Hatch	Pell
Brown	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Hollings	Reid
Burdick	Inouye	Robb
Burns	Jeffords	Rockefeller
Byrd	Johnston	Rudman
Chafee	Kassebaum	Sarbanes
Coats	Kasten	Sasser
Cochran	Kennedy	Seymour
Cohen	Kerrey	Shelby
Conrad	Kerry	Simon
Cranston	Kohl	Simpson
D'Amato	Lautenberg	Smith
Danforth	Leahy	Specter
Daschle	Levin	Stevens
DeConcini	Lieberman	Warner
Dixon	Lott	Wellstone
Dodd	Lugar	Wirth
Domenici	McCain	Wofford

NOT VOTING—3

Helms	Roth	Sanford
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So the motion to lay on the table the amendment (No. 2440) was rejected.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 2440) was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LENDER LIABILITY PROVISIONS OF MANAGERS' AMENDMENT

Mr. GARN. Mr. President, yesterday I described the lender liability provisions included in the managers' amendment and the need for legislative action despite the recent EPA rule. I ask unanimous consent to include in the RECORD two letters I have received from the FDIC and the RTC on this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follow:

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, May 21, 1992.

HON. JAKE GARN,
Ranking Republican Member, Committee on
Banking, Housing, and Urban Affairs, U.S.
Senate, Washington, DC.

DEAR SENATOR GARN: The Federal Deposit Insurance Corporation is pleased to comment

on your bill, S. 651, in light of the final Environmental Protection Agency regulation on lender liability under Superfund.

We continue to support S. 651 because, although the EPA rule will provide valuable guidance to lenders, it addresses only some of our concerns. Your bill supplements the EPA rule in helping the FDIC to operate in a cost-effective manner and to sell properties. As S. 651 would exempt the FDIC from Superfund liability, provided that we have not caused or contributed to contamination, we would be able to avoid litigation to prove that our actions come within the security interest exemption or the innocent purchaser defense.

In addition, S. 651 addresses our need to market properties by extending our immunity to subsequent purchasers, provided that they meet certain criteria. Without such protection, we might not be able to sell properties affected by contamination to facilitate their clean-up by the private sector. Finally, S. 651 addresses certain issues relating to lawsuits based upon state law and third-party suits for contribution.

Sincerely,

WILLIAM TAYLOR,
Chairman.

RESOLUTION TRUST CORPORATION,
Washington, DC, May 15, 1992.

HON. JAKE GARN,
Ranking Republican Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR GARN: Thank you for your letter regarding your bill, S. 651, on lender liability. Although the final rule recently issued by the Environmental Protection Agency on CERCLA lender liability is quite helpful in clarifying those activities in which the RTC may engage without incurring CERCLA "owner or operator" liability, we remain of the opinion that the most effective protection for the Resolution Trust Corporation lies in legislation.

Consequently, the RTC continues to support enactment of legislation to codify exemptions to and defenses against hazardous substance lender liability.

With best wishes.

Sincerely,

ALBERT V. CASEY,
President and CEO.

AMENDMENT NO. 2437, AS MODIFIED

Mr. RIEGLE. Mr. President, I now urge adoption of the managers' amendment.

The PRESIDING OFFICER. Is there further debate on the managers' amendment?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2441 TO AMENDMENT NO. 2437
(Purpose: To place a temporary moratorium on interstate branching by savings associations)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for himself and Mr. BUMPERS, proposes an amendment numbered 2441 to amendment No. 2437.

Mr. FORD. 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 the amendment, add the following new section:

SEC. . MORATORIUM ON INTERSTATE BRANCHING BY SAVINGS ASSOCIATIONS.

(a) MORATORIUM.—Notwithstanding any other provision of law, no Federal savings association may establish or acquire a branch outside the State in which the Federal savings association has its home office, unless the establishment or acquisition of such branch would have been permitted by law prior to April 9, 1992.

(b) APPLICABILITY.—This section shall apply during the period beginning on the date of enactment of this Act and ending 15 months after such date.

Mr. FORD. Mr. President, I have sent to the desk, along with the distinguished Senator from Arkansas [Mr. BUMPERS], an amendment to provide for a 15-month moratorium on the implementation of recent interstate branching regulations issued by the Office of Thrift Supervision [OTS] for Federal savings associations. These regulations would preempt all State laws—let me underscore that, Mr. President—these regulations would preempt all state laws in this area, and would completely alter the very complex policy debate in the Congress on the issue of interstate branching.

The amendment which Senator BUMPERS and I submit today is offered in the spirit of compromise, so that this legislation may move forward without delay. We would have preferred to have nullified the OTS regulation altogether, by amending existing statutes to assure OTS would respect State laws. OTS has ventured into an area where Congress should ultimately make the policy choices.

However, we are also aware that this is an area which may be revisited by the Congress some time next year. The moratorium gives Congress at least an opportunity to look at the issue without having the status quo so dramatically changed by a regulation. Therefore, we are willing to compromise on a 15-month moratorium, which I understand is acceptable to the chairman of the committee—possibly not the ranking member—in an effort to move things forward.

Let me try to explain how we have come to this point. Last year, during consideration of the banking bill, the Senate adopted my amendment on interstate banking and branching for commercial banks. We did not address thrifts, but only banks. The debate essentially came down to what sort of burden the Congress should put on

States in deciding whether or not they wanted interstate banking and branching. My amendment had one approach, and Senator BUMPERS offered another approach through his amendment.

But both amendments left the fundamental decision of whether to allow interstate branching to States. It has always been a State's decision, and should remain so.

It was clear during our debate last year that certain State's rights simply had to be respected. For instance, many States restrict interstate banking activity to the acquisition of existing institutions within their borders. They do not allow out-of-State holding companies to simply come in and set up new branches. They wish to protect the franchise values of their own institutions. Many States also require that only those institutions which have been in existence for more than a certain period—say, 3 years of 5 years, for instance—may be acquired. Other States reserve the right to block interstate acquisitions if it would result in an out-of-State bank holding company controlling more than a certain percentage of banking deposits in that State.

As everyone knows, the interstate branching language adopted last year for banks was dropped in the conference committee when no agreement could be reached on a broader bill. Then, out of nowhere came the Office of Thrift Supervision. Once our debate over banks was out of the way, OTS saw its chance to act on interstate branching for savings and loan institutions. On December 30, 1991—think about this now—on December 30, 1991, OTS proposed an interstate branching rule for thrifts that is such a wild departure from the parameters of the debate in Congress that it should alarm every Senator. The OTS rule is such a dramatic change in our policy that it will fundamentally shift any future debate we may have in this body on interstate banking and branching for banks or thrifts.

The OTS has now expressed its clear intention to preempt State laws in this area. Under the new rule, federally chartered thrifts will be allowed anywhere in the country, regardless of whether State laws permit it and regardless of any reasonable conditions which State law may require.

Senator BUMPERS and I may have differed slightly in our approaches to this issue for banks last fall, but we are absolutely united in our outrage over this new rule for S&L's. I would think any Senator who supported either of our versions would share these views.

The OTS is attempting to railroad through a major policy change which it knew could not pass the Congress, at a time when Congress is not focused on this issue; namely, December 30, 1991. The proposed rule was announced on December 30, between the holidays. It

was given only a 30-day comment period; 25 Senators objected to this rule in writing, and requested an extended comment period. This request was ignored. The OTS ignored the written request of 25 Senators. A few weeks later, OTS Director Ryan informed me that they were going forward with the new rule. They waited for the RTC funding bill to run its course, and then on April 9, OTS announced that this rule would become final.

This dramatic shift in policy for S&L's goes well beyond anything which we debated for banks on the floor last year. I believe it is a power grab by OTS of the most blatant kind. I believe it is a power grab that we should put a moratorium on. State chartered thrifts will have every incentive to convert to federally chartered thrifts. And any future debate on this floor relating to banks will not be based on what is the best policy. It will be based on what the thrifts already have. Forget about States rights. Forget about protecting the franchise value of existing institutions in your State. Forget about the system of dual regulation in this country.

Mr. President, the dangers and benefits of interstate branching are still the subject of much debate. States are our laboratories right now on this issue. They are experimenting with the issue, and there are a variety of different schemes in place today. I believe this must be respected. I believe this is the most logical way to approach the issue. It is also the most sound. The wide open solution imposed on the thrift industry by OTS may ultimately prove to be the most unsound.

So the amendment which Senator BUMPERS and I offer today is needed. It merely restores the status quo on this issue. It says federally chartered thrifts can branch interstate, but only if States allow it. This was the law before OTS changed the rules. It should remain the law until Congress has had a chance to fully debate the issue and decide on whether to make major policy changes.

Mr. President, I am pleased the distinguished minority leader, the Senator from Kansas [Mr. DOLE]—this is an amendment he sent to the desk, also. So we find many on both sides of the aisle feel the OTS has gone too far. It is time we decide the policy, and have them carry it out.

Mr. President, I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I thank the Senator from Kentucky, and I thank the Senator from Utah for letting me proceed for just a moment.

I am delighted the distinguished Senator from Kentucky has offered this amendment which is the same legislation I introduced earlier this month called the Savings Association Inter-

state Branching Limitation Act of 1992. I know my good friend and colleague from Utah, the ranking Republican on the committee, does not agree with this amendment. But I would say it is an effort, through a 15-month moratorium, to see whether or not this is the right thing to do, and it is a moratorium on the effectiveness of a regulation of the office of thrift supervision which lifts restrictions on nationwide branching for federally chartered thrifts.

My problem with the OTS regulation, aside from some concerns over the alleged benefits of interstate branching as balanced against possible harms, I think is with the process followed by OTS.

On Monday, December 30, 1991, notice of the proposed rulemaking was published in the Federal Register.

To say the least, it did not take a rocket scientist to have predicted that this proposal would generate a lot of interest and controversy.

It also does not take a rocket scientist to figure out that such a difficult and controversial issue should be fully and carefully considered over a period of time before action is taken. Certainly, in my legislative experience, that's the best way to put countervailing arguments to rest and to lend integrity and credibility to the process and the resolution of that process.

Instead, what did the OTS do? They issued a proposed rulemaking during the holidays when Congress is adjourned and everyone is out of town.

Furthermore, they limited the comment period to a mere 30 days, 30 days for a regulation that represents a major departure from prior policies, 30 days for a regulation that ignores States rights to determine thrift branching practices within their own borders.

And perhaps most important, 30 days for a regulation that would open the doors to interstate branching for thrifts when Congress just a few weeks before rejected interstate branching for banks.

The purpose of this legislation is to turn back the clock to provide an opportunity for the process to start all over again. The legislation will restore the pre-OTS regulation status quo such that federally chartered thrifts will only be permitted to branch interstate if allowed under the laws of the affected States for State chartered thrifts, subject to certain exceptions involving the acquisition of a failed or failing thrift.

During the 15-month moratorium period, a full and vigorous debate of the OTS proposal can take place before there is a rush to regulate. This way, whatever the final outcome, there will be assurances that all pro's and con's of the regulation are fully and openly considered.

I think this is a middle-ground approach, though I know it is not sup-

ported by the administration in this case, or by all members of the Banking Committee.

So I thank, again, the Senator from Kentucky for his leadership. I am happy to join him in the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Utah.

Mr. GARN. Mr. President, I do not have any great illusions about the outcome of this vote, but it is not possible for me to explain to this body how disappointed I am in the behavior of the Congress of the United States concerning the financial institutions of this country.

I want to make certain that my colleagues, particularly Senators FORD, BUMPERS, and DOLE, do not take my remarks personally, or as directed at them. Senator BUMPERS and Senator FORD are classmates of mine from the class of 1974, and they are good friends.

But I have lived with moratoriums my entire career. I came to the U.S. Senate in January 1975. I sat in the Banking Committee and listened to the distinguished Senator McIntyre from New Hampshire propose the Financial Institutions Act, to do something about modernizing the banking system of this country. And I supported Senator McIntyre.

The bill was passed, as I remember, in 1976 in the Senate. It was not approved by the House. Again, in 1978, I believe it was passed, and not approved by the House. There is an 18-year record—my entire career in the U.S. Senate is one of a dramatically changing financial institutions system in this country. We do not do business anymore the way we used to in banks, savings and loans, credit unions, the securities business because, if someone has not noticed, if for no other reason, the computer—technology has changed.

You can now make transfers of money anywhere in the world in a few seconds. Despite all that dramatic change in the way we do business, we have some people who still want to say that interstate banking does not exist. It does exist, and it has existed for a long time. As proof of that, I could take a card and go down by the subway right now and draw money out of my bank in Salt Lake City, UT. And everybody has those privileges. So it does exist.

Beyond the issue of technology, interstate banking and banking has existed because of mergers of troubled institutions across State lines; because of States in regional compacts allowing interstate banking and branching, including my own. Anybody who wants to come and operate a bank in Utah, be our guest.

So that is the reality. Interstate banking of banks and thrifts does exist, in reality. Congress, after 18 years, has not been willing to address that issue. So we have outmoded laws.

I am not standing up here saying they should be revised in exactly the way the Senator from Utah thinks they should. There is obvious room for disagreement on that. But to continue to make virtually no changes over the last two decades when I can show statements, and I will not, from John Kennedy, as President, from Richard Nixon, from Gerald Ford, from Jimmy Carter, from Ronald Reagan, all of them having various studies done and Congress having studies commissioned over these two decades and longer, really three decades, that we need to modernize over financial institution system, and Congress has not responded. We simply are unwilling. I happen to agree with the Senator from Kentucky that Congress ought to legislate, that these things should not be being done by regulation, but we will not. So I encourage the regulators to adopt regulations. For years I have told the Fed to adopt regulations in hopes that we would get so angry and say we do not want them to do that so we will finally sit down and legislate and come up with a national plan.

I hope my colleagues will recognize that if State laws are being abrogated or overridden, it is not being done by this regulation. This rule removes an Agency limitation on interstate branching. We passed a law, we passed a statute in the Congress allowing interstate branching of thrifts. We overrode State law years and years ago. Interestingly enough, the regulators put limitations on that law. Now they are removing them. So do not let anybody think that this regulation is overriding State law. It is not. We did that. Congress did that, and not the OTS. The Federal Home Loan Bank Board limited, by regulation, the statute which we passed. So at least let us have that correct for the record. We preempted State law a long time ago. The regulators limited that preemption, and now they are opening it up, which essentially conforms with the original statute that we passed to allow that.

But the usual compromise or amendment—again no criticism of the Senator from Kentucky—is a moratorium. Boy, during my career in the Senate, I have lived with a lot of moratoriums. That is always the thing to do, and I tell the Senator from Kentucky, if I thought the Congress would act in 15 months, that they would actually do something about it, I would not be opposing this amendment. But I have lived through moratorium after moratorium after moratorium, and I know exactly what will happen, as it has happened to me so many times before.

When I was chairman of the Banking Committee, I could recite a whole list of moratoriums. At the end of the moratoriums, "Oh, we have not had time to consider this." We extend the moratorium. Regulation Q on interest

rate ceiling was passed, I think, in 1966 was a temporary regulation. It was extended for 16 years. This is our normal mode of operation: Do not confront an issue, do not make a decision, do not legislate; pass a moratorium, delay; we are going to think about it longer. If anybody had told me that I could serve for 18 years in the U.S. Senate and leave with Congress doing so little about this dramatically changed financial marketplace, I could not have believed that Congress could be that irresponsible.

I do not doubt the intentions of the Senator from Kentucky and the Senator from Kansas. They are sincere about what they are trying to do. But I promise them—I will not be here 15 months from now—but I will guarantee them that the motion will be out here to extend the moratorium because we have not yet had time to decide. Is not 30 years long enough? 20 years? 10 years? 5 years? Again, if I thought another 15 months would make a difference, boy, I would say let us just accept the amendment. But why should I believe that Congress will change? Why should I believe that? I have been as much as advocate of States' rights around this body as anybody else, but not nearly as much as I used to be because, if the Federal law had applied to the States' savings and loan institutions in this country, there would not be a thrift crisis, the taxpayers of this country would not be bailing out \$150 billion of taxpayers' money, because most people do not understand that three-fourths of that entire loss occurred in State-chartered institutions, and three-fourths of that problem of the three-fourths occurred in two States, in Texas and California.

I am not going to sit here and defend the right of California and Texas to rip off the American people for \$100 billion, but that is what they have done. That is what has happened. I can hear all about deregulation and how it caused this problem. It certainly did, but not at the Federal level. If the various laws, including Garn-St Germain, had preempted State law, that could not have happened in Texas and California.

Just one example. One of the major problems in this huge loss was direct investments where thrifts could take money and not make loans with collateral, but invest in their own behalf. We all know about the insider deals and the direct investments. It is interesting. Do you know what Federal law allowed a Federal thrift? They could invest 3 percent of their total assets in direct investments. That is all, just 3 percent. But the Texas Legislature, in their wisdom, said, oh, a Texas thrift can invest 40 percent in direct investments, and in California, 100 percent. They did not even have to make a loan, just take depositors' money, insured by the FSLIC, and say, "I think I will build a shopping center. If it goes well,

we make the money. It is not coming from a loan."

I suggest there are times when we say to hell with States. I wish we had. I wish we had said to them that this applies to State-chartered institutions and then we could stand up proudly and say the taxpayers are not paying a \$150 billion bill. The very least we should have said, which former Chairman Proxmire and I tried several times, is, "OK, we are not going to preempt you, we are not going to apply Federal law to State-chartered institutions, but we are going to tell you, if you do not comply with Federal law, you cannot have Federal insurance." That would not have averted the crisis, but it would not have been a Federal crisis. The States would have had to stand up for their own action.

So as a small city mayor and defender of States rights, I suggest that we cannot blindly always say that the States are right. Some of the State legislatures of this country caused the thrift crisis, but does the American public know that? Oh, no, they think it was Congress. It was not. It simply was not. Federal law would not have allowed the vast majority of those losses to occur because the Federal institutions could not engage in those businesses.

The issue of interstate banking or branching for thrifts or banks is rather interesting as you look at that and you look at the failure of Continental Illinois, one of the big bank failures in this country. We had such wonderful modern banking laws in Illinois that they could not even branch out of Cook County, let alone across State lines. If you examine that failure, it is primarily because of their inability to have a retail business, to have geographical dispersion of their assets, they could not leave Cook County. We still have States that do not allow branching across county lines. We still have Federal laws that prohibit branching across State lines. But by the end of this year, European banks can branch all over Europe. German banks can go to Spain, Spanish banks can go to France, and we keep our system tied down to these little parochial laws that fractionate a system and we wonder why we have problems.

Try to enact interstate branching. It did not make any difference that all the regulators last year said this was a safety and soundness issue; that if there was one thing that we could pass in a banking bill last year that would be most important to limiting the exposure of the FDIC and the fund for the savings and loan, it would be to allow interstate banking. Because a few Members on the House side did not want to agree with that, it came out again.

We had a study by the Federal Reserve which said that increased ability to branch will increase the safety and

soundness of our banking system. According to this study:

The failure rate of banks with branching networks during the recession was much lower than banks with limited branches. Geographic diversification makes it possible for banks to diversify their loan portfolios to a greater extent. This makes banks less subject to swings in regional economies. Bank failures in the 1980's were concentrated in the States with limited branching rights. GAO found that 90 percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching.

How much more evidence do we need?

Ninety percent of the banks that failed in 1987 were in States that allowed only unit banks or limited branching. The GAO found that branching restrictions may make a bank more vulnerable to adverse economic conditions. These banks have less opportunity—

I am still quoting the GAO—

have less opportunity to diversify risks and are more vulnerable to economic downturns in particular communities.

The CBO recently released a study that concluded nationwide interstate banking would enable banks to increase their geographic and industry diversification. Such diversification would contribute to reducing the probability of bank failure over the business cycle and thereby lead to a more healthy and stable banking system.

Expert witnesses before the Banking Committee testified in favor of interstate branching. Comptroller Bowsher testified in favor of interstate banking. Former Deputy Secretary of Banking Coswell testified when New York permitted branching upstate by New York City banks, small independent banks in the upstate region continued to thrive and local deposits were not drained out of the community. Instead, through increased competition, more and better services have been available to upstate residents.

Robert Litton of the Brookings Institution testified, "It is no accident that most bank failures were concentrated in States with limited branching rights." He also stated that the Nation would have suffered fewer bank failures in the 1980's had we long ago permitted nationwide branching.

It goes on and on and on. If there is frustration in my voice, it should not be a surprise to anybody—18 years, a career in the Senate trying to convince Congress that we need to modernize our banking laws, and we have not. And then I am faced with another moratorium; let us think about it a little longer.

I am almost willing to bet that I could come back 18 years from now and the same debates will be occurring. Some Senator will be offering a moratorium. It will not matter what has happened to the banking system. It will not matter how the foreign banks have taken over, because we are not able to compete. Twenty years ago, 7 out of the 10 largest banks in the world were in the United States. Today 10 out of the 10 largest banks are Japanese. I think our biggest one is 23d or 24th.

They laugh at us. They have modernized their banking laws. They are competitive. We talk about the automobile industry and the difficulties we have

there. Well, we, Government, are holding down our financial community in this country, and we are the best; we are the innovator of most of the financial instruments. They copy us. The Japanese used to send a couple hundred people over, and I was flattered when they would say, "Would you come to speak to them." It took me a while to find out what they were doing. They were learning about our financial system. And one of the things they learned is do not have all these restrictions. That is why 10 out of the 10 largest banks in the world are Japanese and control so much money and why they buy so much property in our country.

I did not intend to talk this long, but it goes far beyond just the issue of this amendment, to when are we going to listen. Forget the regulators and their testimony. How about some of these independent witnesses? How about the testimony that we would have had fewer bank failures had Congress been willing to allow modernization of our system?

It is overwhelming and it is clear, and I know of no dissenters that can refute the evidence of the 1980's. It is not a matter of opinion. It is a matter of fact. It is hindsight. It is hindsight that had we enacted some of these provisions 15 or 20 years ago, the size of the banking and S&L problem would have been much less. Had we preempted State law, there virtually would have been no S&L crisis. Or had we at least said fine, you can do anything you want, we are not going to preempt you; we value the dual banking system and we will not—you can do any damned fool thing you want in your State legislature but not with Federal insurance. Be on your own.

The interesting thing of it is, when they get in trouble, some of the State banking institutions, when their own funds go bankrupt, then what do they do? They run to the Senate and House Banking Committee and say, "Bail us out."

I do not know why the Congress of the United States should be responsible for what State legislatures do. I do not understand that concept, that a Texas legislature can allow 40 percent direct investments and California allow 100 percent and Federal law says only 3 percent, and then we pick up the bill for them.

Why? Why do we do that? I just do not understand. It is their bill. It is not ours. Yet every Member of Congress is blamed for the S&L crisis.

They ought to start looking at their State legislatures, particularly in California and Texas, start looking at them and place the blame where it belongs.

So, yes, I am opposed to this amendment. I am opposed to it for one very solid reason. Congress will not act in the next 15 months. If there was some way the Senator from Kentucky could

tell me that we would, with all this history I have recounted, that Congress would suddenly decide this is an important policy decision and make a determination on what our financial system ought to look like for the 1990's, not the 1930's, then I would say to the chairman, let us just accept his amendment. Boy, I would be tickled to death if we would resolve this problem in the next 15 months. But a moratorium is not the answer.

I would suggest that not having a moratorium for people who do not want this to be done by a regulator would be more of an incentive to act in the next 15 months. Say we do not like what you are doing, we do not think you should do it. And I agree with that in concept.

We should act. It is our responsibility. We have abrogated our responsibility for two or three decades. It is time we made some policy decisions, whatever they are, even if it is a determination that no, we are not going to allow interstate branching. That is at least a determination. It is not hiding from the issue. It is not dodging the issue.

I suggest that is why the American people are more upset with Congress than any other reason, not what time we close the Senate dining room or what kind of gifts we have or even the House bank scandal. It is that we will not do anything. We will not take action. We will not make decisions. We will not set policy for this country.

So I just do not expect anything to happen with a moratorium. I have been through too many moratoriums and I have been consistent in opposing them because of that knowledge.

So again my remarks are certainly not intended at my good friend from Kentucky, but they are intended to be directed at a Congress that has been unwilling to act and the consequences are there for everybody to see. The evidence is there that interstate branching of banks and S&L's would increase safety and soundness, a geographical dispersion. That is not an opinion. The statistics from the eighties indicate very clearly that what I am saying has taken place.

I will close with that one statistic—in 1987, 90 percent of the bank failures occurred in States with unit banking systems or limited branching. And in the States where they have the ability to diversify and move across geographic lines, the failure rate has been less.

How much more evidence do we need? As I said, hindsight ought to be pretty conclusive. I have not said it specifically, but I would think that everyone understands my position, that I oppose the amendment of the Senator from Kentucky, and I yield the floor.

Mr. RIEGLE addressed the Chair. The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, many of the things the Senator from Utah has

said I would find myself in agreement with, but on this particular issue I am bound by the same understanding on the managers' amendment by which I was bound on the previous amendment by the Senator from Connecticut. Obviously, the Senate will have to work its will on this issue.

So, bound as I am on the managers' amendment, I cannot, regardless of my feelings on a particular proposition, agree, at least so far as my vote is concerned, to put it in the managers' amendment.

But again, on the merits of the issue. I think the weight of the merits is on the side of the Senator from Kentucky in the sense that I think it is important on this issue, as we have attempted to do on the interstate branching of commercial banks, that the Congress be involved.

I think we have an obligation to be involved. I think it is some of the most important decisionmaking that we have to do. The Senator from Utah and I worked diligently to craft a comprehensive banking reform bill that dealt with that issue of interstate branching by commercial banks. We brought it here to the Senate. There was a fight on the floor at that time—the Senator from Kentucky, and the Senator from Arkansas were involved, and there were some differences of opinion. We eventually resolved that.

We reported a bill out of the Senate that had an interstate banking provision in it that I think was sensible, balanced, and fair. We took that into conference, and unfortunately because of objections on the House side we were not able to move to incorporate that in the final version of the bill. I regret that fact. I think that we in fact do need to revisit that issue at a time when it can be done.

The Senator from Utah has said that he does not foresee that happening now, or perhaps even within the 15 month period of the proposed moratorium. I think it needs to be done. I expect it will be done.

It will depend in part on whether we get a new administration or not. Even if we get the same administration, the Bush administration again, they may wish to come back with this issue of changes in the banking system. They certainly said it was a priority before but they have obviously taken it off the priority list at the present time.

But I am convinced that, if we were to get a Clinton administration or a Perot administration, which I think is equally likely if not more likely, then I think these issues will be revisited. They would be revisited in a new context, with a new Treasury Secretary and new proposals on the table. I think we would be able to move through and address the issues of interstate branching, not only by commercial banks but also by the savings and loans.

I must say one experience that I come away with looking back over the

last decade is that regulatory discretion and regulatory assertions of authority can really blow up on us. They can be like an exploding cigar, because of the quality of regulators at any given time and the change in market conditions, and changes in State powers. As the Senator from Utah has pointed out, regulators come and go. You get good ones; you get poor ones. You are never certain whether the apparatus is in place, and whether the philosophy that is being followed, or the practices that are being carried out, are adequate to the problems that are out there in that particular regulated area.

Oftentimes the sheer scope and scale of the complexity of these industries as they are operating across 50 States make it very difficult for even a diligent regulatory force to know precisely what it is that is going on.

I assert that was so even in the case of the commercial banking failures, where the deposit insurance system at the end of last year was about \$6 or \$7 billion under water, and we had to make a \$70 billion taxpayer loan to re-finance the bank insurance fund. We previously saw the bust in the savings and loan insurance fund—in that instance I do not think at the time even the practitioners in the industry understood the devastating consequences of the buildup of the problems that were going on.

I have yet—I say to my colleague from Utah, and he may have a different experience—to have anybody out of the commercial banking system, a commercial banker, whether one from my State, one from across the country, or anybody representing any of the bank associations or groups of bankers, come to my office ahead of time, anytime, and say: "By the way, we are very concerned that the bank insurance fund is going broke. And we have a most difficult problem with over-investment in commercial real estate, and prior to that a massive overinvestment in Third World loans; also a big problem in bridge loan financing for leverage buyouts. And we think something ought to be done to correct those problems before they grow to such a size that they impair the entire industry."

I never had a single banker or banker group come in and say that to me, even though they stood to be severely damaged by conditions building up in their own industry.

I only cite that as an aside, because you might figure that if there was a huge systemic problem building up out there, you might get it from the regulators. If the regulators do not come and throw the switch, you might expect that the industry leaders themselves, particularly because they are cross-affiliated in a common insurance fund, would be coming in and blowing the whistle on the excesses in the in-

dustry early in time so that the good institutions would not be damaged by the bad ones. But that did not happen.

I must say that I am left with that experience saying that it is very different for me to stand here today and count on the industry itself to come in and be the early tripwire on accumulating problems that are out there, because they have not done it before even though catastrophic problems were looming and building up, nor have I seen the regulators do it sufficiently.

So I am not prepared to propose these decisions on a scale this large in a system that I have seen in recent years has not by itself been able to work properly. So I think on so fundamental a question as interstate branching—whether by commercial banks or thrifts—to address it in law and not by administrative regulation. I think we need to understand the dimensions of it—who qualifies, what the standards are, what is going to be in place with community lending requirements, and things of that kind. That is what we did in the context of the debate on interstate branching by commercial banks.

I might say with the Senator from Utah and myself in the lead, we worked that issue through. We worked it through in the Banking Committee. We worked it through here on the floor with the help of the Senator from Kentucky and others to try to resolve the issue in as fair a way as we could because there are conflicting interests. But on something of this magnitude, I think you need that level of focus and that level of involvement in how the practice is to be established and how the rules of the game are to be laid down, and if they are to be changed how they are to be changed.

I think that kind of debate that occurs here will yield in the end a better answer, and a clearer answer, and a much more clearly articulated national policy in the evolution of financial system policy than if we simply allow a given regulator and a given agency on a given day to lay down a new policy directive and march the system off in that direction without direct participation by Members of the Congress in how the actual law is written.

I think it further needs to be said that the interstate branching issues in the commercial banking system have an important and tandem relationship with how the same issues are to be dealt with in the savings and loan industry. These two industries are different in certain respects. They are not precisely the same, as is well-known by people who would understand this issue. But the treatment of how we undertake to do interstate branching is a live issue with respect to the commercial banking system, and it does have a cross-relationship with what is going to be done with respect to the savings and loan system.

So, while they are separate, they are nevertheless tied together. So there ought to be an effort made to try to understand and cross-relate the policy in these two areas. I think that is a requirement that comes back to us, and that we must undertake to address.

I will say again for the third or the fourth time, we have attempted to do that. The Senator from Utah has been in the lead in that area, and I certainly have. We have drafted provisions as they would relate to the commercial banking system. We brought them through the Banking Committee. We brought them here to the floor. They were debated here. They were settled here; passed by the Senate. We took them to conference with the House. The House was unwilling to take them up.

So we have attempted to discharge that responsibility, and we must continue to do so. But that is different, I say, from taking that responsibility, where I think we properly need to be engaged, over into an administrative agency and dropping it on an administrator, whether it is the head of OTS or whoever, and saying, look, we could not get it sorted out. You do it the way you think is best. On a matter of this size, I come out on the side of saying, no, I am not prepared to do that.

So I am with the Senator from Kentucky on the substance of this issue. But now I want to come back and finish by saying I do not think this ought to go in the managers' amendment. He will understand my thinking on that. He is chairman of the Rules Committee, and when they put a package together within the jurisdiction of that committee, and it is agreed to by the minority and majority members, and they come out and offer it as a managers' amendment—at least, if their practice is similar to ours in the Banking Committee—that creates an understanding that we will support together the managers' amendment. Unless we can agree on adding something or agree on deleting something, we will otherwise stand together against any changes to add or subtract.

We did that before on the Dodd amendment, despite my underlying support for the Dodd amendment. I must do so here. So I will have to be voting to table the amendment of the Senator from Kentucky. But on the substance, I think the amendment is correct. If I were not bound by the managers' amendment, I would vote for it.

Mr. GARN. Mr. President, I would like to respond briefly. The Senator from Michigan referred to me on two or three occasions.

First of all, I say that I, over the years, have heard from a lot of bankers who criticize the Third World loans of the very large banks in this country, and so on; and over and over again, I have heard from bankers who did not

like the way things were going. So I am a little surprised if the Senator has not. I speak of the small- and medium-size banks in this country.

I suggest that people realize that the vast majority, 80 to 85 percent, of the banks in this country are well run, well managed, conservatively run, well capitalized, and are in no danger, and have not participated in some of the exotic types of things that the Senator from Michigan was talking about.

Mr. RIEGLE. If the Senator will yield, because I appreciate his point, and I want to clarify the meaning of what I was saying.

I heard individual bankers come in and gripe about the practice of other bankers, whether it was Third World loans, or what have you. I have not had any bankers, or even more important, any banker groups—and there are lots of them—come in and say, "Look, we think there is a looming disaster where the Bank Insurance Fund is going to go broke, because you have these practices out in the industry being carried out by some banks or some bankers that are going to such excess and such extreme that we think they may sink the whole system."

And I simply make the point, because one would assume that people in banking, whose fate was tied to that type of situation, who might see it coming, would be the first ones in to say we think the Bank Insurance Fund is going to go broke unless we get the industry on a different track. Unfortunately, I have had no bankers come in or any banker association groups come in ahead of time and say that they felt there was imminent danger, and the system was going to go broke.

Mr. GARN. I say to the Senator from Michigan that I have, particularly one from Utah, who started contacting me about 14 years ago. So I have had a different experience in that area.

The other thing—and I say it briefly, because I do not see anything Republican or Democratic about this debate, or the problems of the S&L's, and I never have—but to indicate that the administration has lost interest in this, I do not think is accurate. They sent up a bill last year. The Senator and I tried very hard to do something about it. Primarily because of the House of Representatives' unwillingness to go ahead, we did not get the comprehensive banking bill that both of us desired to.

The administration sent it up again this year, and they talked to me many times, and the counsel from Congress has been do not bother to push it because, in an election year, it is not going to happen.

Only one thing might have a small chance of happening—interstate branching. A bipartisan press conference was held by myself, Senator DODD, Nick Brady, the Secretary of the Treasury, and both Republicans and

Democrats on the House side, to introduce a bill at the administration's request to do interstate branching.

So I suggest that is fair to say that there undoubtedly will not be any comprehensive action this year. But I certainly do not think it is fair to indicate that it is lack of interest on the part of the administration. We sent up world, including this Senator and everybody else, that it is not going to happen, so do not waste your time, or to indicate, unless there is clairvoyance on the part of my good friend, that Perot and Clinton would have more interest in this than the current President, George Bush, I do not know that, because I have not heard either Clinton or Perot say anything about this issue to indicate their feelings in any way. I have not heard Perot, as a matter of fact, say anything definitive on anything yet. I am anxious to see if the man has any thoughts on a particular subject, other than his populist BS he continues to push.

Mr. SIMON. Mr. President, I rise in support of the amendment. The chairman of the Banking Committee, I think, made an eloquent speech for the amendment. I agree with 95 percent of what he had to say. The last 5 percent, I differ with.

It was not too many months ago we were on this floor debating this very issue, and Congress decided we would leave the question of interstate branching to the States. This is a subject that is serious enough that we should not have an agency just issuing a regulation saying, we are going to have 30 days' comment, and if nothing happens untoward, we are going to go ahead with interstate branching. This is a major decision for the financial institutions of this country. So I object to it on procedural grounds.

Second, Mr. President, my friend from Utah is partially correct when he says State legislators and States did not do their job, and that is the reason for the kind of mess that we have had. There is a little bit of truth to that, but not much.

Basically, deregulation came from the Federal Government, where we permitted savings and loans to go out and loan not just on residential property, but anything they wanted. And then we permitted them to do it not on resale prices but appraised prices. I am pleased to say that when I was in the House of Representatives, I was 1 of 13 to vote against that deregulation.

Third, regarding the deficit that the Presiding Officer, the distinguished Senator from Florida, has been working on, there is no question that the deficit has aggravated the whole situation that we are in. It has caused uncertainty in financial markets.

In the 1960's, the deficit represented 2 percent of net savings in our country. Now we are at the point where it represents about 70 percent of that savings in this country.

And then, finally, the 1986 tax bill, no question about it, added tens of millions of dollars to the savings and loan costs. That was not State legislators that did that. That was not State governments who passed that 1986 tax bill.

Before we move more and more in the direction of bigger and bigger banks, and move away from small thrift institutions, I hope we will take a good, hard look. The reality is, as we move toward a greater and greater concentration, we are going to have a greater and greater concentration not just in thrift institutions, but in the institutions that they make loans to.

Let us just say that Senator GRAHAM is the president of a big bank—and I have good friends in these major banks—but he has a choice of making one loan of \$1 million to a major corporation that is in great shape. Let us just say it is General Motors. Or you have the choice of making a hundred loans of \$10,000 to small businesses. It clearly saves you a lot of paperwork to make that one big loan, and yet those small businesses are producing 70 percent of the new businesses in the country.

It seems to me the amendment is a sound amendment. I hope it will pass. I hope we will have a moratorium so that we can look at this thing more carefully and not permit a regulatory agency to suddenly make a major decision for the economy of this country.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, at the risk of repeating what was said before I came to the floor, I think it would be instructive to talk about the history of this rule. Just before Congress adjourned last year for the Christmas holidays, we passed a comprehensive banking bill that did not permit interstate branching by banks unless the State in which they chose to branch permitted it. There is a certain States rights issue at stake and there was a great deal of discussion about the role of States in interstate branching. The conference report on the banking bill did not change the law on branching.

We went home for the Christmas holidays, staffers who stay right on top of these things were also out of town, and on December 30, the day before New Year's eve, Timothy Ryan and the Office of Thrift Supervision published notice of a proposed new interstate branching rule for S&L's, and the comment period was only 30 days. Senator FORD, who has been my colleague in this whole thing from the very beginning, and I wrote a letter and 25 Senators signed it. The letter said "As you probably remember, we prohibited banks from doing exactly what you have now decided S&L's ought to have the right to do."

Talk about a midnight pay raise. Here was a midnight rule with only 30 days to comment and the Congress was

hardly going to be in session before the 30-day period was over. Mr. Ryan wrote back:

In developing the proposed amendment, the Office of Thrift Supervision believed that the proposed change would facilitate consolidation and geographical diversification among Federal savings associations, reduce operating cost, increase healthy competition among depository institutions, and improve the quality of services furnished to customers.

He may believe that, but every study of the issue shows the contrary.

The Harvard Business School did a study and they said the study concludes that banks that merge newly acquired institutions have difficulty improving profitability. The banks cut expenses, but those cuts are offset by a loss of business and revenue to competitors.

So here you have the Harvard Business School study saying, "Mr. Ryan, you could not be more wrong."

And who else? Here is a study by the Federal Reserve Bank of Atlanta and what do they say? They conclude that their analysis cannot support the hypothesis that larger bank mergers on average produce significant cost savings.

Mr. Ryan also said in his letter to Members of the Senate: "Fostering greater financial stability for the thrift industry, in turn will decrease risks to the SAIF." That may be true, but what he doesn't explain is how branching will foster greater financial stability. The risk is greater. He also says in this letter that one of the big advantages is an S&L that gets in trouble because of a local downturn in the economy will have the right to branch out in another State where the economy is not down. Mr. President, I say to my colleagues that is the same kind of logic that has cost the American people \$150 billion so far in the S&L cleanup. The truth of the matter is if you have a downturn in the local economy and the only way the S&L's can deal with that is to start branching into other States, the worse the economy gets, the riskier their investments get. It is almost on all fours with what we came to know as hot money.

Mr. President, do you remember when the S&L's began to get in trouble that they got in trouble because they were loaning long and borrowing short? They loaned DALE BUMPERS money to buy a home for 5½ percent for 30 years, and then 15 years later suddenly found that the interest rate they were paying their depositors was up to 15 percent. It is hard to make money when you pay 15 percent on deposits and only get 5½ percent on loans.

So what did they do? They started advertising through brokerage firms, "Send us your depositors' money and we will pay you 15 percent or 14 percent, or whatever, on a 30-day certificate of deposit."

What they wanted to do was to be able to turn around and loan that hot

money. They hoped that if they got enough deposits a one point spread would be profitable enough to save them from the gigantic spread between their old 5½ percent loans and what they were having to pay for money.

Mr. President, you know what hot money is. That means you have it today and tomorrow you do not. And that just exacerbated the problem.

So here we have the Office of Thrift Supervision in the persona of Timothy Ryan saying, "Let us try it again. We believe we can get it right this time."

Mr. Ryan's February letter to me bordered on being insulting, frankly. We were saying we just passed a bill that did not allow banks to interstate branch and the minute we left town the proposed administrative rule was published.

Mr. President, I sincerely hope that the people in this body are not going to permit this rule to stay in effect. Senator FORD and I introduced a bill to prohibit interstate thrift branching. Senator DOLE shortly thereafter introduced a similar bill, but Senator DOLE did not prohibit branching it; he just put a 15-month moratorium on it.

And so Senator FORD and I are offering an amendment that is almost identical to the Dole proposal for a 15-month moratorium. What is wrong with that. Why should not the Banking Committee of both Houses consider this rule and not allow somebody like the head of OTS, to arbitrarily make a gigantic decision on his own with virtually no input from Congress; why does not the Banking Committee bring him up here so he can tell us all about this rule and how it is going to work?

Mr. President, there are some pretty important organizations in this country that favor the Bumpers-Ford amendment. For example, the National Conference of State Legislatures. That is every State legislature in the country, saying: We favor the Bumpers-Ford amendment.

The Consumer Federation of America: "Vote yes on Senator FORD's amendment to eliminate OTS interstate branching."

The Conference of State Bank Supervisors. That is every State banking supervisor in America. "Dear Senator BUMPERS: The Conference of State Bank Supervisors strongly supports yours and Senator FORD's efforts."

And then there is a letter here from a fairly broadly respected organization, the Independent Bankers Association of America, which is what most of the banks in my State are. "Dear Senator BUMPERS: On behalf of the 6,000 members of the IBAA, I am writing to urge you to support passage of the Bumpers-Ford amendment."

Now, Mr. President, those people are fairly important. They know what branching amounts to. So what I am saying here, Mr. President, is we ought to think very carefully about this. I

hope the Senate will support this amendment. All you are doing is saying we are going to postpone this for 15 months, let the Banking Committee hold hearings, and bring Mr. Ryan to testify about this. Let him tell us why he knows so much more than the Harvard Business School knows, and why he knows so much more than the Federal Reserve Bank of Atlanta.

If I were going to run a popcorn stand, I would try to find somebody who is successful in the popcorn business to tell me what to do. If I were Mr. Ryan, I would be talking to people who know something about how the whole S&L bailout crisis came about in the first place. Because it looks to me as if we may very well be starting down the same road.

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I am a cosponsor of this legislation. I do not know whether I am a cosponsor of the amendment, but I would like to be if I am not, because I do favor the bill.

Mr. FORD. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. FORD. Mr. President, I ask unanimous consent that Senator GRASSLEY be added as a cosponsor of this amendment.

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

Mr. FORD. I thank the Senator.

Mr. GRASSLEY. Mr. President, there is nobody in this body that can make the case any better than the Senator from Arkansas just did. I do not pretend to do that or maybe even make any new arguments. But for sure, I do want my colleagues to know that I feel strongly, as the Senator from Arkansas does, about this issue.

But more importantly, as the Senator from Arkansas expressed dismay about how some lowly bureaucrat can frustrate the will of Congress, as is being done through this regulation, it should not surprise him or any other Member of this body that there are bureaucrats downtown that make a career, lifetime career, of Government service, of trying to frustrate the will of the people as expressed through this body by undercutting or stretching to the zenith any sort of discretion that the bureaucracy has in existing law. And this is a perfect example of how this is being done.

So I hope the Senator from Arkansas is not surprised, because this happens all the time. I am only sorry it has happened on this, and so close in time, just 6 months since Congress last expressed its will on this subject. And this will was expressed when the interstate branching was not a part of the banking bill that passed this body last year.

Last fall, Congress made very clear that interstate branching would not be a part of that banking bill. But now we

have the Office of Thrift Supervision circumventing that decision.

Without a doubt, they are snubbing, as far as I am concerned, congressional intent. And they did that on December 30, 1991, when OTS introduced such a regulation that would allow interstate branching for savings and loans. They limited the comment period to only 30 days, and during that 30-day period of time, they even ignored a letter of opposition signed by 25 Senators.

I think, Mr. President, that that is outrageous that they would take such action this way, to be completely contrary to what Congress did last year. Of course, that is why I am joining Senator FORD and Senator BUMPERS in cosponsorship of their legislation, and now in this amendment, to place a moratorium on the OTS regulation for these 15 months. The amendment grants more time for us to evaluate this decision, and to give Congress, as well as our States, more time to act.

You see, if the Federal Government permits interstate branching, small banks in our local communities across rural America will suffer, and suffer tremendously. Local citizens' money will be funneled from the branch in the community to the home offices, most often located in some big city far away, unconcerned about the local economy.

As a result, smaller banks that serve as a critical part of the backbone of local communities would be at the mercy of the bigger players, who, by law, could take the money and invest it out of State.

Under the law, before this regulation was forced on the States, the decision of whether to allow interstate branching was left to the sovereignty of each State.

This law permitted branching by federally chartered thrifts only if allowed under the laws of affected States for State-chartered thrifts. Currently, 13 States allow interstate branching under their laws.

So it cannot be said that States might not want to do this. And maybe I might disagree with some of those States doing it, but at least I believe that those States have a better handle, under the laws of those States, on whether or not it has a detrimental impact upon the economy of those States.

Now, the Bush administration argues—and let me say that Senator DOLE, here in this body, takes a different point of view, because he put in one of the first pieces of legislation in this area. And contrary to Senator DOLE's wisdom on this, the Bush administration argues that interstate banking and branching are critical to today's economy.

The administration says that there are too many small banks in the United States, and that a consolidation of services allows for economy of scale. It also argues that consolidation would result in greater efficiency and a lower rate of bank failures.

But I think the evidence speaks to the contrary, because the evidence against interstate branching and banking is very clear. I want to refer to a study—maybe it has already been quoted here. I have not heard all the debate because I have been over there hearing testimony before the POW/MIA Select Committee that I am a member of.

But according to a 1991 study by the Federal Reserve Bank of Minneapolis, very large banks are less profitable than middle-sized ones, and are not necessarily less likely to impose costs on the FDIC.

Moreover, the study challenges the popular belief that the goal of economies of scale is behind the banking industry's consolidation.

In addition, after the Treasury Department issued recommendations in 1991 for interstate branching by banks, a Harvard Business School study found that merging banks did not achieve significant improvements in operating profits relative to other banks during the first 2 years after a merger.

The OTS has proceeded with its proposal, but this body has the power to be the final arbiter, and I believe we should exercise that power. Maybe we are not even exercising that power boldly enough by going along just with a 15-month moratorium here. But, obviously, that moratorium is better than if we do nothing.

So I join many of my colleagues who support legislation to codify the law before this regulatory preemption of State power. Without congressional action, the OTS proposal will critically injure the financial health of many States and lead our national banking system in a dangerous and unhealthy direction.

I urge my colleagues to support the Ford-Bumpers amendment.

I yield the floor.

Mr. FORD. Let me thank my friend from Iowa for his strong support for the position Senators BUMPERS, DOLE, and I have taken.

I want to take just a minute, if I may. I grew up in a family that taught us that our word was our bond. That meant whenever you made a statement you lived up to it. I do not fault my good friend from Michigan, the chairman of the Banking Committee, for keeping his word, saying no amendments on this.

I thank him for saying the weight of the argument under this amendment he would favor. So I would like to have his support. But I want him to know, publicly, I do not fault him for keeping his word. I would fault him if he did not. So I compliment him for that.

The Senator from Utah [Mr. GARN] made an eloquent speech about all the problems and preempting the States and we ought to go tell the States how to run their business and we should have done it a long time ago. Yet he at-

tests to the fact that he is probably one of the strongest States righters on the Senate floor. Those two statements do not jibe, as far as I am concerned.

Let us just look at this managers' amendment that they say they do not want any amendments on. This managers' amendment has become a banking bill. Basically that is what it is. It has provisions on the savings and loan transition rule; on separate capitalization—that has something to do with the stability and financial strength of a savings and loan; insider lending—that is one of the items in this managers' amendment. Executive compensation is in this amendment. Appraisal standards are in this amendment. Truth in savings is in this amendment, as I read it. Lender liability is here.

When we begin to add it all up, money laundering and more, we find that this amendment, I think, is germane to the committee amendment. It is something that fits appropriately. The fact is this managers' amendment has already been amended. It is not going to be a new thing. So this amendment is not out of place, in my opinion, in the managers' amendment. This is a minor moratorium amendment and it is not unreasonable in light of the provisions of the managers' bill.

We have heard here, and I want to reiterate a little bit, that on December 30—you can almost say in darkness—Mr. Ryan put out this regulation, and in 30 day from December 30—Congress was not in session. As Senator BUMPERS said, Senators were not here. Staff members were back home with their families, or here at home with their families for Christmas and the holidays. So this unusual effort to pass this regulation, I think, has to be seen in the light rather than in the darkness.

Twenty-five Senators from both parties sent a letter to Mr. Ryan and asked for an extension of the comment period—that is all—and we were turned down. Then the rule was put out after we had voted on the RTC funding. Not a "i" was changed or "t" was changed, as I read it, from the original rule. After all the comments, nothing was changed. We do not know the input. We do not know who made the decision.

So I think it is important we bring these people to the committee and listen to them tell us why. Maybe we will agree. But one thing is still clear, if the moratorium is agreed to, then the law stays as it is. Those 13 States that allow branching can continue to do that because the States have agreed to it. But this regulation preempts State law, period.

OTS knows very well they could not have obtained this major policy change through specific legislation, even if they only wanted to clarify the 1982 law. Think about it a minute. OTS intentionally—and I underscore intentionally—waited until after Congress

had adjourned last year to issue this rule. If Congress knew OTS wanted to go this far, I do not believe it would have approved this new policy during last year's debate.

We have been relying upon OTS' previous interpretation of the 1982 law which respected States rights. That was a pattern. They have respected States rights. Now they are looking at it with disrespect. Somehow or another we have to say that this is not the right way to do it. They have gone around Congress. They have usurped our right to make the policy, to be carried out by the executive, which is the Constitution. So they found a way to do it.

This amendment is not about whether you are for or against interstate branching. In my opinion, it has to be a little bit of States rights. I believe the evidence is mixed on whether interstate branching is all positive or all negative. My colleagues should support this amendment unless they are 100 percent sure that unrestricted interstate branching is a good thing; 100 percent sure that unrestricted interstate branching is a good thing. The OTS based its rule entirely on assumptions and on theory rather than reality.

I believe we should have a little more hard evidence before we exercise this tremendous change as it relates to the rules.

Why does OTS want to take this change after what we have seen in the S&L industry in recent years? Why do they want to move in this direction with a cloud over the situation? It is beyond me to be able to believe that this is done without consideration of major institutions wanting to cross State lines to sap up small savings and loans. And what do they do then? They will transfer that capital out of your State to their home office and the ability of having the local friendly savings and loan people that you have known and dealt with all your life, now to say I have to dial an 800 number to find out if I can make a loan to you. Think about it just a little under those circumstances.

States rights should continue to be respected in this area where we have seen shared State and Federal responsibility for decades. Under the old rules, a Federal thrift could branch interstate if State laws would allow a State-chartered thrift to do so, and this moratorium does not change it. So I believe this is a proper approach.

Mr. President, my friend and colleague from Arkansas, Senator BUMPERS, referred to letters of support of our position: A letter from the Conference of State Bank Supervisors, the National Conference of State Legislatures, the Independent Bankers Association of America, and the Consumer Federation of America. I ask unanimous consent that these four letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CONSUMER FEDERATION OF AMERICA,
Washington, DC, June 23, 1992.

GSE BILL—VOTE YES ON SENATOR FORD'S AMENDMENT TO ELIMINATE OTS INTERSTATE BRANCHING

DEAR SENATOR: Today Senator Ford will offer an amendment to end the entry of OTS (Office of Thrift Supervision) into nationwide branch banking. We strongly urge your support.

Director Tim Ryan has written a letter in support of the current OTS bank branching rule claiming it is pro-consumer. When Mr. Ryan testified before the House Banking Committee on this rule, the only consumers he could think of who might be helped are those in rural areas who currently do not have a bank near them at all.

Well, for the other 219 million consumers in this country who do have a bank near them, the OTS bank branching rule is very anticonsumer. It will encourage thrift concentration, elimination of credit to small businesses and consolidation of profits and policy control in the hands of far fewer shareholders. This could result in a very unstable, unsafe thrift system.

Branch banking tends to reduce the availability of consumer services as a result of management operation rather than owner operation.

Support the Ford amendment.

Sincerely,

PEGGY MILLER,
Banking Director.

INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
Washington, DC, June 9, 1992.

Hon. WENDELL H. FORD,
Russell Senate Office Building, Washington,
DC.

Hon. DALE BUMPERS,
Dirksen Senate Office Building, Washington,
DC.

DEAR SENATORS FORD AND BUMPERS: On behalf of the 6,000 members of the Independent Bankers Association of America (IBAA), I am writing in strong support of your efforts to prevent the Office of Thrift Supervision (OTS) from using its regulatory authority to allow unrestricted nationwide branching for thrifts.

This regulatory end-around not only thumbs its nose at Congress, which only months ago chose not to allow interstate branching for commercial banks, but it also preempts state law, denying the states the opportunity to help shape the financial structure within their borders. Furthermore, it ignores several recent studies which cast considerable doubt on the alleged benefits of interstate branching and conclude that in some cases it could actually be harmful.

Finally, any move to provide thrifts with branching authority at this time will create an unlevel playing field with commercial banks. Parity between banks and thrifts is essential to the future stability of the banking industry.

We strongly urge you to aggressively pursue this issue.

Sincerely,

GARY J. KOHN,
Legislative Counsel.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, June 4, 1992.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: The National Conference of State Legislatures (NCSL) strongly supports S. 2355, the bill you have sponsored in response to the regulation issued by the Office of Thrift Supervision allowing interstate branching by thrifts. NCSL supports any effort to expedite action on the thrift branching issue by including language similar to the provisions in S. 2355 in any relevant legislation pending on the Senate floor. Congressional action, NCSL believes, is immediately required to roll back the OTS regulation and to reiterate that a savings association may branch interstate only pursuant to the express authorization of state law.

The OTS rule disregards sound principles of bank regulation and congressional policy with respect to interstate branching by financial institutions. It also creates serious problems of state-federal relations. The regulation permits nationwide branching by federal savings associations without regard to state law.

The rule runs counter to the demonstrated congressional policy in the areas of interstate branching by financial institutions. In its last session, Congress rejected proposals to impose nationwide interstate branching. The Office of Thrift Supervision must not now implement by regulation a policy that was explicitly rejected by Congress. The regulation is not consistent with existing law. Both the Senate and the House by overwhelming majorities rejected unrestricted interstate branching for thrifts during their debate of FDICIA.

The rule in any case is bad banking policy. Currently, interstate branching by thrifts is employed in the resolution of failed thrifts. The regulation allows interstate branching either de novo or by acquisition of a healthy institution. This will increase the cost of resolving failed thrifts by decreasing their franchise value. The result will be to increase the cost to taxpayers of the thrift crisis.

Finally and most important from NCSL's perspective, the regulation violates principles of federalism. It seriously undermines the system of dual chartering and regulation for depository institutions. Opponents of the state role in bank regulation are using this rule to eliminate state control over interstate banking and intrastate branching. This raises serious Tenth Amendment issues. As the Supreme Court made clear in the recent case of *Gregory v. Ashcroft*, 11 S. Ct. 2395 (1991), where principles of federalism are so involved, state law should not be preempted absent a clear statement by Congress of its intent to preempt.

The National Conference of State Legislatures strongly urges the passage of S. 2355 or any legislation similarly providing for the roll back of the OTS regulation on interstate branching by thrifts.

Sincerely,

WILLIAM T. POUND,
Executive Director,

National Conference of State Legislatures.

CONFERENCE OF STATE
BANK SUPERVISORS,
Washington, DC, June 18, 1992.

Hon. WENDELL H. FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: The Conference of State Bank Supervisors strongly supports

your and Senator Bumper's efforts to amend S.2733, the Government Sponsored Enterprises Act, to restore rationality to savings and loan branching.

On April 8th the Office of Thrift Supervision, in violation of congressional intent and administrative procedure requirements, reversed fifty years of regulatory precedent and completely deregulated geographic expansion by federal savings associations. This new rule included a sweeping preemption of all state laws concerning branching of federal savings and loans.

This new rule flies in the face of recent congressional action regarding interstate branching. At no time during the debate of interstate branching last year did Congress consider any proposal close to the radical deregulation adopted by the OTS. Even the Administration proposal contained numerous restrictions and required a three year phase-in of interstate branching.

In addition, the OTS rule is unsupported by any credible empirical or other evidence that industry consolidation and geographic diversification achieved through interstate branching will enhance safety and soundness, reduce operating costs, increase competition, and improve customer service. Recent studies challenge these assertions, confirming previous admonitions that interstate activities of financial institutions may result in reduction of funds for local lending. Also, these studies found no evidence that mergers significantly reduce expenses. The OTS fails to provide any analysis in response to repeated allegations regarding the impact on those institutions that it purports to help. The OTS is ignoring current and relevant information such as these studies in issuing their branching regulation.

In light of this information, as well as the clear intent of Congress during last year's debate and vote, the Conference of State Bank Supervisors strongly urges the support of your and Senator Bumper's amendment.

We appreciate your efforts and look forward to working with you again.

Sincerely,

JAMES B. WATT,
President and CEO.

Mr. FORD. Mr. President, I do not know whether others wish to speak as relates to this particular amendment. If they do, fine. I would like to ask for the yeas and nays at some point, I say to my friend from Michigan, so that we might have a vote and not delay the action of the Senate as it relates to his particular piece of legislation. I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, let me just say to my colleague from Kentucky, first, I appreciate his kind comment earlier in his remarks.

I know of no other speakers waiting to speak on this issue. I know there are some Senators who, during this debating period, had gone downtown to meetings. So I think we are then ready now if there is no reason to assume that anybody is going to be inconvenienced in that fashion.

I think, otherwise, we are ready to move to table the amendment and have the vote. Let me just enter a quorum call at this time and we will probably proceed with the vote very shortly. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

(At the request of Mr. RIEGLE, the following statement was ordered to be printed in the RECORD:)

• Mr. SANFORD. Mr. President, no one was more disappointed than I was when Congress failed to pass comprehensive banking legislation last fall. It is the responsibility of the Government to craft laws that promote strong economic activity throughout the country. A strong economy is dependent on a strong banking system. It is no secret that our financial world has changed dramatically over those 50 years.

Allowing interstate branching is the cleanest, most simple step we could take toward updating the banking laws and allowing the industry to become more competitive without adding any additional risk to the system. I believe that the concept of interstate banking and branching is simply good public policy. This is not a new concept—the groundwork has been firmly established. Essentially 48 States currently allow some form of interstate banking activity and 33 of them allow nationwide interstate banking. However, the legal structure currently required under interstate banking vs. interstate branching results in substantial, unnecessary operating costs for the banks.

We recently recapitalized the bank insurance fund with a loan from the taxpayers that is to be paid back by the banks. Considering this, it is beyond me why we are not considering legislation that would allow banks to streamline their operations and operate more efficiently which would in turn save the industry billions of dollars. A portion of these potential savings could help improve bank capital and lessen the risk of additional bank failures to the fund. In addition, competition resulting from interstate activity would subsequently expand consumer choices at better prices and make banking more convenient for customers.

I understand and share my colleagues' concerns over the implementation of such an important policy through regulations rather than statute. However, I am extremely disappointed that the Congress has not yet revisited this vital issue in 1992. Actions by the Office of Thrift Supervision [OTS] have brought this important issue back to the attention of Congress. Again, interstate banking and branching is the cleanest simplest step we can take to improve the condition of the banking industry without

adding undue risk to the system. In light of the important economic benefits to be derived from interstate branching, I think it is vital that we consider this issue again before the end of the session.●

Mr. McCONNELL. Mr. President, I rise today in support of the amendment proposed by Senator FORD and Senator BUMPERS to impose a moratorium on interstate branching of savings associations. This would at least temporarily prevent the Office of Thrift Supervision [OTS] from using its regulatory authority to permit unrestricted interstate branching of Federal savings associations.

Mr. President, I hesitate to oppose interstate branching by Federal savings associations, because I believe that responsible and properly monitored branching will undoubtedly improve the competitiveness and efficiency of our financial industry. However, I do not consider the actions of the OTS as responsible or proper.

In November of last year, the Senate passed legislation that supported a responsible interstate branching measure which honored the rights of all States. Less than 1 month later, however, OTS proposed a rule to permit full interstate branching that steamrolls the rights of all States.

I realize the advantages that responsible branching will provide. In a policy statement, OTS stated that branching will "enable thrifts to diversify geographically their operations and thereby enhance safety and soundness."

I agree that branching will enhance competitiveness and efficiency; however, we can not deny States the right to monitor and regulate financial activity within their boundaries. State regulators can and should provide a critical service as they continue to monitor regional investment trends, bank concentration, community reinvestment levels, and critical economic information.

This legislation does not diminish the intent of OTS regulation, but would prevent the blind and reckless expansion of thrift organizations. As a matter of fact, all but four States already provide for some degree of interstate branching.

This legislation would place a 15-month moratorium on all interstate branching of all federally chartered thrifts. This legislation would permit the interstate branching issue to be studied and carefully evaluated. During the moratorium period the pre-OTS regulatory status quo would be restored.

Mr. President, this legislation will not hamper the ability of thrifts to engage in interstate branching, but would serve to strengthen the thrift industry and therefore, reduce the risk to consumers, State and Federal Government, and the economy. I believe this

legislation is right for the people of Kentucky and the Nation as a whole.

I urge all of my colleagues to support this legislation.

Mr. FORD. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to the Ford-Bumpers-Dole amendment: Senator FOWLER, Senator SIMON, Senator DECONCINI, and Senator KOHL.

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

Mr. FORD. 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.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. RIEGLE. Mr. President, I move to table the amendment and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 2441. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Carolina [Mr. SANFORD] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote

The result was announced—yeas 15, nays 82, as follows:

[Rollcall Vote No. 128 Leg.]

YEAS—15

Biden	D'Amato	Murkowski
Bradley	Garn	Riegle
Chafee	Gorton	Rudman
Craig	Lautenberg	Seymour
Cranston	Moynihan	Symms

NAYS—82

Adams	Dodd	Kennedy
Akaka	Dole	Kerrey
Baucus	Domenici	Kerry
Bentsen	Durenberger	Kohl
Bingaman	Exon	Leahy
Bond	Ford	Levin
Boren	Fowler	Lieberman
Breaux	Glenn	Lott
Brown	Gore	Lugar
Bryan	Graham	Mack
Bumpers	Gramm	McCain
Burdick	Grassley	McConnell
Burns	Harkin	Metzenbaum
Byrd	Hatch	Mikulski
Coats	Hatfield	Mitchell
Cochran	Heflin	Nickles
Cohen	Hollings	Nunn
Conrad	Inouye	Packwood
Danforth	Jeffords	Pell
Daschle	Johnston	Pressler
DeConcini	Kassebaum	Pryor
Dixon	Kasten	Reid

Robb	Simpson	Warner
Rockefeller	Smith	Wellstone
Sarbanes	Specter	Wirth
Sasser	Stevens	Wofford
Shelby	Thurmond	
Simon	Wallop	

NOT VOTING—3

Helms	Roth	Sanford
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So the motion to lay on the table the amendment (No. 2441) was rejected

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I understand that the managers of the bill now are willing to accept this amendment by a voice vote. And since we do have the yeas and nays on the amendment itself, I ask unanimous consent the yeas and nays be vitiated.

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

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2441) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that Senator HARKIN be added as a cosponsor, and it be showed at the appropriate place.

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

Mr. SEYMOUR. Mr. President, I want to take a moment to explain why I voted against the Graham amendment to the emergency supplemental bill. The emergency supplemental appropriations for disaster assistance for Los Angeles and Chicago, H.R. 5132, will appropriate a total of \$1.94 billion in new budget authority. The Small Business Administration and the Federal Emergency Management Agency will receive \$497.7 million to be directed to Los Angeles to repair damage from rioting and to Chicago to repair damage from flooding. This funding is contingent upon a Presidential "emergency spending" designation which under the Budget Act, such spending is exempt from the pay-as-you-go requirement.

The Graham amendment linked the emergency supplemental bill for Los Angeles and Chicago to the rescission bill. The Graham amendment provided that the appropriations authorized under the emergency supplemental bill would not become effective until such time as legislation is enacted and becomes effective that rescinds fiscal year 1992 funds in an amount at least equal to the aggregate amount of appropriations authorized under the emergency supplemental bill. In short, if the rescission bill had failed, so did the supplemental. The Graham amend-

ment put the emergency assistance for Los Angeles and other communities in limbo. The necessity of the emergency disaster money was too important; I could not put the future of Los Angeles at risk.

I understand that the collective memory of this body is usually brief. So let me remind my colleagues of the reasons why this legislation was so important. Four short weeks ago, beginning on the evening of April 29, this Nation was plunged into several days of the most destructive and bloody civil unrest in more than a century. And when it was over, Los Angeles looked like a war zone.

The toll from these few short days of pillaging and rioting had been tremendous. There were at least 58 deaths, over 2,300 injuries and over 5,300 structure fire calls. The city of Los Angeles estimated they spent \$33 million in extraordinary costs to respond to the rioting. LAPD put in almost 200,000 hours of overtime to respond at a rough cost of \$21 million. And that was just the beginning. Local and State officials are still adding up the costs. We saw entire communities go up in flames. Businesses that took years of sweat and hard work to build were destroyed. Livelihoods were destroyed. Property was pillaged. This was the most senseless and mindless looting and killing and burning we have seen in over a century.

The emergency supplemental appropriations bill was a necessary first step. The funding in the bill will go into the FEMA and SBA disaster assistance accounts to help all communities that have experienced disaster this year; And now, Los Angeles. The supplemental appropriations bill was needed to help innocent victims of the Los Angeles riots; the families and shopowners and community residents who have seen their communities and livelihoods torn apart.

Proponents of the Graham amendment argued that both the President and the Congress have proposed numerous rescissions, and that enactment of a rescission bill was imminent, and we ought to tie these two issues together. They argued the funding under this bill should be made contingent on first rescinding an equal or greater amount of funding than has already been enacted.

I understood the Senator from Florida's concerns that the Congress fails to provide adequate funding for FEMA, and I will work with him to see that additional funding is made available. And, surely, out of a budget of \$1.5 trillion, we can find \$2 billion of wasteful or low-priority spending and eliminate it. But, this amendment was not the correct vehicle to achieve that end. There was no assurance that the Senate, or the House, was going to support the rescissions as proposed by the President and modified by Congress; And this amendment was wrong, at

this specific time, because it callously placed needed disaster relief in jeopardy.

In addition, by vetoing the rescission bill, the President would be able, in effect, to veto this emergency supplemental bill simultaneously. We should not set this precedent. Under the Constitution, the President has an option to veto a bill, but only one bill at a time. Approving the Graham amendment would be an abdication of legislative authority by Congress to the executive branch. Without speaking on the merits of either bill, we must, institutionally, insist that the President exercise his veto authority over each bill separately.

I stand for integrity in budgeting and the need for fiscal conservatism. And I stand ready to work toward these goals. I have always stood to reduce Government debt, only by reducing our massive deficit can we free up capital for necessary investments. I support a line-item veto for the President, a balanced budget amendment and a 60-vote supermajority requirement in the Senate on any bill to increase taxes. Mr. President, I endorsed the intent behind this amendment but could not support it as an addition to this particular bill.

Mr. CRANSTON. Mr. President, I am pleased to rise in support of the important legislation before the Senate today. The Federal Housing Enterprises Regulatory Reform Act of 1992 represents a watershed in the life of the housing Government-sponsored enterprises—Fannie Mae and Freddie Mac—and will fundamentally alter the nature and scope of their regulatory environment. This measure represents a bipartisan effort and was unanimously approved by the Banking Committee in April.

While this bill includes a number of important provisions regarding the GSE's, I would like to take a moment to focus on the importance of title V of the bill, which is designed to ensure that these corporations faithfully carry out their public missions and serve the housing needs of low- and moderate-income families.

There is general consensus that Fannie Mae and Freddie Mac efficiently and effectively serve the home ownership needs of the broad middle class. By linking the home mortgage market with domestic and international capital markets and by creating a more competitive market for home mortgages, mortgage interest rates are reduced by some 25 to 50 basis points. Perhaps more importantly, stability across geographic regions is brought to a primary lending market beset by restructuring and turmoil.

Yet there is a growing perception in recent years—among a wide coalition of lenders, builders, tenant advocates, State and local governments and other housing organizations—that Fannie Mae and Freddie Mac are simply not

doing enough to serve the housing needs of low- and moderate-income families.

This coalition compared and contrasted the explosive growth of the GSE's in the 1980's with the significant reduction in housing affordability for both low- and moderate-income homeowners and renters during the same period. On the rental side, the gap between the supply of affordable rental housing and the demand of low-income renters grew to an alarming 4.1 million apartments. On the single family side, the Nation experienced a decline in home ownership rates, particularly among young first-time home buyers, for the first time in 50 years.

Other factors have also fueled the growing perception of GSE underperformance. The cutback in Federal housing subsidies and the dismantling of FHA's capacity have left affordable housing actors scrambling to find new partners, particularly partners like Fannie and Freddie, which receive considerable Federal subsidies. The growth of CRA-inspired affordable housing lending has revealed shortcomings in the wholesale, standardized approach of the secondary market. And Fannie and Freddie's own actions—their significant investment in low income housing tax credits as well as their creation of special affordable housing programs—have raised expectations.

Until late last year, the negative perception of GSE performance was based primarily on anecdotal evidence. Staff investigation found a disturbing lack of empirical information on the GSE's business—an information vacuum created primarily by HUD failing to carry out its own regulatory responsibilities throughout the 1980's.

The vacuum has now been partially filled. In October 1991, new data was made available under the expanded Home Mortgage Disclosure Act. The new data—relying for the first time on actual borrower income—shows that, in 1990, only 23.5 percent of Fannie's single family business and 24 percent of Freddie's single family business served borrowers with incomes below the area median. The HMDA data totally undercut Fannie and Freddie's persistent claim—using less accurate data involving the purchase price of loans—that over 35 percent of their single family business was devoted to the low- and moderate-income market.

Other HMDA statistics were equally revealing and troubling. Only 2.5 percent of the loans purchased by Fannie Mae in 1990 were in neighborhoods in which 80 percent of the residents were members of minority groups. The comparable percentage for Freddie Mac was 3.6 percent.

Last September the Fair Housing Congress of Southern California issued a jarring report entitled "Taking It to the Bank: Poverty, Race and Credit in Los Angeles." The report's conclusions

revealed that financial institutions in Los Angeles do not provide adequate banking services, economic development lending, or affordable housing financing for lower income and minority communities. And the recent and tragic events in south-central Los Angeles highlighted these inadequacies and brought national attention to the need for significant improvements in our ability to provide access to capital and mortgage credit in our central cities.

Against this backdrop, title V of this bill would establish a comprehensive framework of goals, data collection, reporting requirements, and enforcement provisions. In particular, the legislation establishes three annual housing goals that will require the GSE's to increase the proportion of their mortgage purchases benefiting homebuyers and renters whose incomes and location have put them at a disadvantage in housing finance markets. This framework will ensure, for the first time, that the regulator and the Congress have all the information necessary to assess the performance of the housing GSE's.

My strong belief is that the critical combination of this legislation, an effective regulator and a vigilant Congress, will compel Fannie Mae and Freddie Mac to expand their commitment to affordable housing for low- and moderate-income families. It will not solve our affordable housing crisis—only significant increases in Federal housing subsidies can accomplish that. Yet, it will play an important role in ensuring that mortgage credit is increasingly made available to those individuals and for those purposes which for far too long have been ignored by the secondary market.

I urge all my colleagues to support this important piece of legislation. I commend the chairman, the ranking member, and their staffs for developing a balanced legislative product in an exceedingly difficult and complex area.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, while I have the floor, let me indicate that there may be two amendments remaining to be offered from the Republican side. Senator WARNER has one that has to do with disclosing the salaries paid to executives in major, nonprofit private-sector organizations like the United Way, organizations of that kind.

He is not quite ready to proceed, because he is just putting the finishing touches on his amendment. He has indicated to me that he will not take long on the amendment, but that he would like a vote on it. In any event, I just alert Senators to that prospect.

Senator BROWN also has an amendment which I think he intends to offer.

Either of those amendments could be offered at this time. I know of no others that are going to be offered. I really

want to wrap up action on the managers' amendment. So I think we are prepared to take up either of those, if the Senators are ready to proceed at this time.

Otherwise, I would be happy to vote on the managers' amendment and hold those items to be brought up later in the bill. I mean, they would have standing later in the bill, as well.

Mr. BROWN. Mr. President, will the Senator yield?

Mr. RIEGLE. I yield.

Mr. BROWN. Mr. President, I might say to the distinguished Senator, certainly it is not my intention to hold up deliberations. My amendment would deal with Senator LAUTENBERG's initiative that is included, I believe, in the managers' amendment.

It is on its way over to the floor, and I anticipate it will be available shortly.

Mr. RIEGLE. All right.

Mr. President, as we await either the presentation of the amendment by Senator WARNER or the amendment by Senator BROWN, I am going to suggest, in a moment, if no one else is seeking the floor, the absence of a quorum.

And we will stand by, pending either of those Senators offering amendments.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SHELBY). The clerk will call the roll.

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

Mr. WIRTH. Mr. President, Government-sponsored enterprises [GSE's] can pose a significant risk to the taxpayer. The potential exposure approaches \$1 trillion. We need to guard against the danger of losses on that scale and I am pleased that legislation, S. 2733, to increase oversight and regulation of the GSE's that support housing lending is before us today.

Fannie Mae and Freddie Mac are healthy today. But both have experienced troubles in the past, although never to the extent that taxpayer funds were lost. The lack of imminent danger is no reason not to act today. In some respects, the sound condition of the GSE's makes this a good time to act because the GSE's are in a good position to adjust to new standards and a new regulatory framework. The GSE's health also gives us time to craft a careful piece of legislation that strikes a sound balance, protecting taxpayers from unreasonable exposure—our first priority in this effort—and ensuring that the GSE's can continue to support housing finance and homeownership.

The committee has worked hard on this legislation. In 1989, we included provisions in FIRREA directing the Treasury Department and the General

Accounting Office to study the issue. We also began to hold hearings on the matter during that same year. In seven hearings over a 3-year period, we were able to carefully examine both Treasury's and the GAO's recommendations and consider the full range of issues related to GSE regulation. Our final hearing was held nearly a year ago and many members of the committee have worked since then with the GSE's and housing advocates to develop the consensus legislation before us today.

S. 2733 strikes the necessary balance. The legislation would: Protect taxpayers from losses; Protect the GSE's from the danger of overzealous regulation and punitive sanctions; and encourage greater GSE support for affordable housing.

S. 2733 includes minimum capital standards to establish a cushion between GSE losses and the taxpayer. It also establishes a new regulator—funded by assessments on the GSE's—with HUD to enforce the capital standards. GSE's with significant or critical capital problems can face restrictions on activities or growth, or a conservatorship. The regulator can also use cease and desist proceedings and civil penalties to enforce the capital standards.

The affordable housing provisions are also important and deserve notice. The GSE's are earning large profits today and benefit from an implicit Government guarantee that allows them to borrow at low cost. The public should expect some benefits in return for the risk to the taxpayer should a GSE fail. The public benefits from greater access to housing finance because of the GSE's. But we have an obligation to ensure that those benefits go to all Americans who want, and are able to, purchase a home. Today, the GSE's are not doing as good a job of supporting low-income housing as they could. For example, only 23 percent of the mortgages Fannie Mae purchases are loans to families with incomes below the median. By comparison, 28 percent of all mortgages are lent to those families.

S. 2733 requires GSE's to meet modest goals to purchase mortgages on housing occupied by low- and moderate-income families, and on housing located in central cities and other underserved areas. Regulators would also set an additional affordable housing goal. If a GSE does not meet a goal, it must submit an acceptable plan to meet future goals. If the regulator finds that the GSE is not making a good faith effort to comply with the plan, the regulator can seek fines and a cease and desist order.

I would like to note that the managers' amendment includes a provision I authored that would extend the current 3-year statute of limitations for civil claims filed by the Resolution Trust Corporation [RTC] to 5 years. This provision is identical to one that

passed the Senate earlier this year as part of the RTC funding package.

Many people affiliated with S&L's took advantage of the opportunity created by the combination of deregulation and desupervision to enrich themselves and their associates. Some engaged in outright fraud and theft or were negligent in their professional responsibilities, overlooking others' fraudulent activities. Bank and thrift regulators are able to file civil lawsuits against the officers, management, and board of directors of financial institutions, as well as outside professionals—usually lawyers or accountants—who advised a failed institution. Those suits can lead to recovery of losses caused by fraud or negligence.

However, the RTC can only file these suits within 3 years of an institution's failure. This statute of limitations is inadequate given the RTC's current workload. A larger number of thrifts were closed in 1989 and FIRREA's statute of limitations expires for 318 S&L failures this year alone. The clock has already run out for suits related to 222 thrift failures this year. Regulators face deadlines for additional institutions almost every week through the end of the year.

Over the next 3 years, regulators will have to examine the potential for lawsuits related to more than 400 additional thrifts already closed by the RTC. As many as 200 more institutions are expected to be taken over during the next 18 months and 500 more are in financial trouble and may eventually be closed. The enormous volume of this workload limits the Federal Government's ability to pursue all of the cases that should be pursued.

RTC officials recognize the need for a longer statute of limitations. At a March 11th Banking Committee hearing, Bill Roelle—the RTC's chief financial officer—testified "I sure do" when I asked him if he supported my legislation. I also have a letter from Albert Casey, the chief executive officer of the RTC, that supports the provision and ask that it be made part of the RECORD.

We should not allow individuals or businesses that contributed to a bank or thrift failure to escape a lawsuit simply because there was not enough time to develop and pursue a strong case. A longer statute of limitations will help the RTC use its limited resources more efficiently and carefully and increase the recovery to taxpayers from civil suits related to financial institution failures. It will also allow the RTC to reexamine institutions and pursue additional cases that may have been overlooked in the rush to comply with statutes of limitation that have already lapsed.

This is an important and urgently needed provision that should not wait until we provide additional RTC funding at some uncertain future date. I thank the managers for including this important provision in the legislation.

Mr. President, S. 2733 is a sound and reasonable proposal. It protects taxpayers from potential future losses, permits the GSE's to continue to bring needed liquidity to the housing finance market so that loans will be available to home purchasers, and ensures that the public will benefit from the implicit support we give to the housing GSE's. I would like to close my remarks by thanking Senator RIEGLE for his leadership on this legislation, particularly the affordable housing provisions, and urge my colleagues to join me in supporting S. 2733.

Mr. President, as we know, we have all been locked into deep concerns about the S&L crisis. What has happened is that, over the time of that crisis, the statute of limitations is running out on a lot of the individuals who the RTC and others want to bring to the bar of justice on these issues. The Wirth amendment, included in the managers' amendment, extends the statute of limitations.

Mr. RIEGLE. Will the Senator yield? Mr. WIRTH. Yes.

Mr. RIEGLE. Mr. President, I want to commend the Senator for his efforts over a great length of time in this area. It is a very important part of the managers' amendment, and I am very appreciative of the Senator from Colorado on this issue.

Mr. WIRTH. I thank the Senator from Michigan and the Senator from Utah, who worked with us on this amendment. I know it has caused some controversy, but I think it is the right policy for us to be pursuing, particularly on behalf of the taxpayers in the country, to make sure that those who benefited from ill-gotten gains, we hope, are going to be forced to disgorge that ill-gotten gain. And I hope that will be the result of the Wirth amendment as part of the managers' amendment.

I thank the Senator from Michigan. I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SHELBY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

The Senator from Alabama is recognized.

Mr. SHELBY. I thank the Chair. (The remarks of Mr. SHELBY pertaining to the submission of Senate Concurrent Resolution 126 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

AMENDMENT NO. 2442 TO AMENDMENT NO. 2437 (Purpose: To amend the Internal Revenue Code of 1986 to improve disclosure requirements for tax-exempt organizations)

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows: The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 2442 to amendment No. 2437.

Mr. WARNER. 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 appropriate place insert:

SECTION 1. SHORT TITLE. This Act may be cited as the "Truth in Tax Exempt Giving Act of 1992".

SEC. 2. PURPOSE. The purpose of this Act is to require tax-exempt organizations to provide contributors, upon request, with a disclosure statement containing a full accounting of the organization's income, expenditures, and compensation (including reimbursed expenses) of its highest-paid employees.

SEC. 3. IMPROVED DISCLOSURE TO DONORS BY TAX EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENT FOR TAX-EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Every organization described in section 501(c)(3), other than religious, which is subject to the requirements of subsection (a) (other than an organization described in clause (ii) or (iii) of section 170(b)(1)(A)) shall—

"(A) advise each contributor of at least \$25 of the availability, upon written request, of a disclosure statement described in paragraph (2), and

"(B) shall furnish such statement to such contributor within 30 days of such request.

"(2) DISCLOSURE STATEMENT.—The disclosure statement described in this paragraph is a statement for the most recent taxable year for which a return under subsection (a) has been filed, which contains the information described in—

"(A) paragraphs (1), (2), and (3) of subsection (b), and

"(B) paragraphs (6) and (7) of subsection (b), but only with respect to—

"(i) the 5 highest compensated individuals of the organization for such taxable year, and

"(ii) any other individual whose total compensation and other payments from such organization for such taxable year exceeds \$100,000.

"(3) PROCESSING FEES.—Any organization furnishing a disclosure statement under this subsection may require that a reasonable fee to cover the actual costs of copying and mailing such statement be included in the written request for such statement."

(b) PENALTY FOR FAILURE TO MEET REQUIREMENTS.—Paragraph (1) of section 6652(c) of the Internal Revenue Code of 1986 (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(E) DISCLOSURE STATEMENT.—In the case of a failure to comply with the requirements of section 6033(e)(1) (relating to disclosure statements provided upon request), there shall be paid by the person failing to meet such requirements \$100 for each day during which such failure continues."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

Mr. WARNER. Mr. President, I am pleased to come before the Senate today to introduce legislation, which, I believe, will strengthen public confidence in tax-exempt giving. In the wake of the startling financial disclosures regarding excessive compensation of high-level executives of certain tax-exempt organizations, notably the United Way, the public has understandably become concerned about donating their hard-earned dollars to tax-exempt organizations. A more detailed knowledge of how the money is to be spent by a tax-exempt organization will help restore their confidence.

Mr. President, all Members of this body, from time to time, have involved themselves and their families in work on behalf of a charitable organization or a tax-exempt organization under 501(c)(3) of our Internal Revenue Code. We do that, together with millions of Americans across our country, in the spirit of trying to help others who are less fortunate than ourselves.

America awakened to a very tragic situation when certain disclosures were made in connection with the highly respected, trusted organization known as the United Way. I shall not go into the details of that case because I am sure they are well known, but it prompted this Senator, and I think many others, to say that the American public—good-hearted, good-natured people, who want to help—is entitled to the basic information necessary for them to make an informed judgment respecting those organizations to which they want to donate their services and perhaps, more importantly, donate their money.

It is for that purpose that I introduce this piece of legislation today. I am going to summarize what it will accomplish and then I will be available to respond to any questions.

If it is the judgment of the managers of this bill, and if procedures regarding the present posture of this bill require that this amendment be laid aside so that other Senators and their staffs may give it more thorough analysis, I will be happy to do that. I wish to accommodate the managers of the bill and my colleagues. I shall, at the appropriate time, ask for a roll call vote.

Now, returning to the legislation itself, there is already under the requirements of the Internal Revenue Code a requirement on the tax-exempt organizations to file with the IRS a form and thereby disclose certain information. But as we all know, we do not go to the IRS. Most of us seek any opportunity possible not to involve ourselves with that agency. But in any event, it places a burden on the individual to go and get that information.

The basic purpose of this legislation is to shift that burden and, at the same time, improve disclosure requirements

for tax-exempt organizations. Essentially, the legislation provides that if an individual gives \$25 or more—and I felt it necessary to put in some threshold, \$25 or more—then he can request of that charity, within 30 days, to mail to him the information they file with the Internal Revenue Service. Current law requires most tax-exempt organizations, including charities, to provide all pertinent information, such as money received and dispersed, assets, liabilities, overhead—including salaries—and more, usually on a Federal 990 form.

My bill also alters in some way the nature of that 990 form as it exists today, such that it can be made simpler, inclusive of more essential information and, frankly, more understandable by the average person who does not in daily life deal with such matters as filling out forms and sending them to the IRS. Mr. President, it is not, and I emphasize not, my intention to create onerous reporting requirements for tax-exempt organizations. In fact, my legislation's requirements should be able to be easily incorporated into the current 990 form, most likely on the first one or two pages.

Mr. President, many may claim that the top executives and the CEO's of tax-exempt organizations should be held to a different and, indeed, a higher standard than persons employed in the private sector, and in many respects that double standard does exist today.

The reality of the situation is that the public perception of a tax-exempt organization is one of a social service organization dedicated to the public good, certainly not a group out to make any personal profit or inordinate gain for its top brass, or to provide them with perquisites of office well beyond what the public thinks is proper for one who has given his or her life to try and direct these organizations.

Thus, compensation considered acceptable, and even commonplace, in the private sector could raise some concern, legitimate concern, if it is received by individuals administering the tax-exempt organizations.

I do not say that they are not entitled to a significant salary. I simply say let the significance and the size of that salary be judged by the donor, to determine whether or not he or she wishes to contribute to that organization.

Further, Mr. President, I do not want donors to only consider the salary of an executive as the bottom line. Rather, I want the public to see executive salaries in comparison to the amount of money the tax-exempt organization is bringing in, how the money is spent, how others in the organization are being paid, and so on. Only when the public has this additional information at their fingertips can they make an informed decision. It is imperative that we should never be subjected to an-

other instance of donors hearing about \$463,000 annual salaries, and then withdrawing support or money from tax-exempt organizations because they do not trust the organization to spend their donations as they see fit. The public must have absolute faith and confidence in the group they intend to contribute their hard-earned dollars.

Within the past few days, the Securities and Exchange Commission has issued a series of regulations requiring the private sector to make a greater degree of disclosure, primarily for the benefit of stockholders and others who hold financial interest in those companies and indeed those desiring to invest or otherwise do business with the companies. Why not have a parallel standard for those who work in the tax-exempt area? And I say there should be no distinction. If anything, the distinction should put a greater burden on those working with tax-exempt organizations because they receive the benefit of certain tax exemptions, and I am confident that most of them, the vast majority, can pass very clearly any test of scrutiny required by this legislation.

Let me give you some examples. We are talking about significant sums of money. According to Giving U.S.A., a New York-based magazine, in 1990, the total giving—this is just in the area of charities, not all tax-exempts but just in the area of charities which is a subsection of 501(c)(3)—was \$122.6 billion. Most of those funds come from individuals, and within that group of individuals, most of them from small donors.

With all the controversy today—and I think it is a good, healthy controversy in America—with all the controversy about high salaries and overhead costs, associated with private sector revelations, I think it is time we have a parallel standard to be imposed on the tax-exempt sector of our country.

What are these CEO's receiving? By way of direct compensation and, indeed, fees, fees that they may receive for other duties not associated with the tax-exempt organization, but in all likelihood, fees that are garnered as a consequence of their participation or office with the tax-exempt—many of them receive significant speaking fees—they are able to augment the salary they receive from the tax-exempt organization. But such activities bear a direct relationship in most instances to the responsibilities under the tax-exempt organization.

The public will show their acceptance or, indeed, rejection of the salaries and the working conditions of these tax-exempts very quickly in the form of writing or not writing their checks to these organizations.

Another example. And I turn now to the New York Times which reported a survey of just the United Way chapters located in large cities across this Na-

tion, and their presidents' salaries. Most of them were well over \$100,000. In fact, in cities ranging from Atlanta to Cleveland, Los Angeles to New York, the lowest salary was \$108,000 and the highest was \$243,000.

The average range was \$160,000 to \$170,000.

Mr. President, my colleagues, maybe they are worth it. I am not here to try to prejudice the credibility of whether those salaries are well earned. Maybe they are entitled to more. All I say is let the public be sufficiently informed so that they can exercise an informed judgment as they write that check or abstain from donating to that organization.

I could throw into that paragraph, of course, the revelations about the first-class flights, limousines, high-priced dinners, vacations. I know of instances where CEO's of many tax-exempts have their vacation villas in warm climates for the winter, and cold climates for other times of the year.

So I think it is about time that the donor be given the full facts. That is the sole purpose of this legislation.

Let me return also to a Wall Street Journal article of March 1992, which contained an article which showed 10 affiliates of the American Cancer Society in States across the country. The average affiliate spent more than 52 percent of its budget on salaries, pensions, overhead, and fringe benefits. Only 16 percent of the typical budget was spent on community services, the end beneficiary of all of these activities. To put it another way, for every \$1 spent on services for the community, \$6.40 is spent on salaries and overhead; overhead, of course, the cost of raising those funds, was included. The question is maybe that ratio is acceptable to the public, but let them have the facts to be fully informed.

As I see it, Mr. President, one of the main problems is simply that there is not sufficient oversight over tax-exempt organizations and the manner in which they disperse and expend public contributions, spending them for the ultimate beneficiary of the organization as well as for the associated expenses.

Their spending priorities are often not monitored as closely as those in the private sector because of the tradition of hands off: they are tax-exempt, the IRS is looking at them, and we trust our Government, so to speak, to ferret out those instances where there is abuse.

But how well we recognize that the IRS is already overburdened with tasks. They have very few people assigned to monitor the current 990 forms that are currently required and sent to them. I think it is time that we add to the board of directors of the tax-exempts the donors. Let them pull a seat up to the table, so to speak, have full access to the facts, and decide whether

or not to write that check. Then, Mr. President, comes I think, the real sad part of this problem, as I see it, and that is the ultimate beneficiary.

The United Way had the most prestigious reputation in this community. As a matter of fact, our institution, the U.S. Senate, participated very actively in supporting this worthy, I might say very worthy, charity through the combined Federal campaign. In my office we actually look forward to making our contributions, to tally our total comparing it with other offices, and seeing how we come out. It was considered a privilege to be that person in the office that year that would be the chairman to solicit funds from among those whom we work with in our office.

Indeed, there was the imprimatur of the U.S. Senate on the United Way because Senate employees, Senate offices, other Senate associates, were utilized for the purpose of collecting these funds. I think most of us, after we have made such contribution as we could, felt good about it in our heart knowing that we were really, truly helping someone that needed that help. Just look at the long list of beneficiaries that are dependent on the United Way.

Now, this year, with this disclosure of their senior executive, how they expended these funds for salaries and other purposes, I do not know what participation will be like here in the Senate and within other Government entities, or what the totals may be. But I am gravely concerned that many of those small organizations, some of whom totally rely on the allocation from the United Way to do their work, will not have the funds they budgeted for this year. And many, many ultimate beneficiaries, sick, disabled, and otherwise, will not be provided for as we had hoped for.

Then there is the separate question—and this legislation covers it—of organizations which are not charitable in nature but are doing work ostensibly for the public good, and receive the benefit of the tax-exempt status of the Internal Revenue Code. There are many persons who have long been curious about just how much do the various CEO's and top-ranking officials of these organizations receive. What is the extent of the purposes of office? How do they handle their expense accounts? This piece of legislation will pull back the curtain and allow the light to come in, and where a light falls truth and indeed honesty I think must spring up.

I am very hopeful that this piece of legislation will receive the strongest endorsement by this Chamber and that in due course it will be well received in the other Chamber and, indeed, in conference, because I think this type of legislation is long overdue. As I said, the SEC is now imposing on the private sector the standards and goals which

are comparable to those contained in my bill.

Mr. President, there are other technical parts of the bill. I have spent quite a bit of time figuring out the least onerous manner in which the tax-exempt organization can inform contributors that there is an available disclosure form available at the donor's request. I do not wish to micro-manage the internal workings of the IRS, and therefore I purposely did not write into my legislation specially how the IRS is to implement this. The logical course of action would appear to be as such: Donors would send a contribution to their favorite tax-exempt organization. The organization would then send the donor back an acknowledgment noting the contribution and informing them that there is a disclosure form prepared by the tax-exempt organization which is available.

Further, I do not wish to impose on a particular charitable organization a heavy burden of expense associated with preparing and mailing to donors the required information.

So we are putting in here that those individuals who request the information have to pay a reasonable fee. I would think no more than a few dollars, and perhaps the tax-exempt organizations may even require a self-addressed, stamped envelope. But we are laying a foundation to start this year with this legislation and perhaps in ensuing years, after we get some experience, we can determine how to improve this.

I have also received questions about my choice of the IRS as the agency who would administer these disclosure requirements. I chose the IRS because they already administer the 990 form. It seemed cost effective not to create yet another bureaucracy, or place responsibility elsewhere in Government, to oversee charitable disclosure when in fact, my legislation's requirements include only a few extra steps above and beyond the current requirements of the current 990. The IRS's role in this is clear; tax-exempt organizations under the Internal Revenue Code and the IRS administers the reporting requirements for tax-exempt organizations.

I am not suggesting that this answers every problem associated with tax-exempt organizations, but I think, I say respectfully, it is a good start. I struggled with how do we deal with the person who gets the piece of literature requesting a donation, and they do not have the facts to really make an informed judgment.

Can all of the potential donors then request of a tax-exempt organization information so that they can prejudice their decision to give or not give?

I was not able to come up with an answer to that. I assure you that, for the balance of my career in this institution, I will work on that and try to im-

prove this legislation. But given the urgency to move forward now, there are some areas which I simply could not resolve. Maybe better minds than mine can figure out a way to not overburden a charity, not subject a charity and tax-exempt organization to a proliferation of inquiries of people who literally want to harass them.

So you have decided to make a contribution, and then thereafter, you can begin to get the information and determine next year whether or not you made the correct judgment. But it is a gimmick of this process.

Maybe during the course of the deliberations of this bill today, and the conference in the House, someone could come up with a solution to that problem. But at the moment, I am trying to make a start so that the persons who decide to give \$25 or more to a tax exempt can rest assured that they are going to get back the information, and they can determine that, yes, I did make a proper decision, or I did not, or I can complain, or in some instances, ask for my funds to be returned.

But we have to make a start. And this piece of legislation, I think, is a constructive objective, and a fair way to make that start.

If this bill becomes an act, it will help to clean up their act, that is the ones who may be taking advantage of the system. I am confident most tax-exempt CEO's and their principal assistants are fairly discharging the special trust reposed in them by both the donors and beneficiaries of their good work. They can face the public and disclose with pride and confidence as to how they fulfill their special public trust.

Mr. President, I think I will yield the floor at this time. There may be others who wish to pose questions to me or otherwise discuss this legislation. However, I will at this time ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. WARNER. Mr. President, I wonder if you can get the attention of the managers of the bill and propound the question once again?

Mr. RIEGLE. Mr. President, I was actually listening, but I was also being informed of another problem that we had not foreseen. And that is that we have a message from the Finance Committee that they are very concerned about adding this particular amendment—which falls within their jurisdiction—on this legislation, which falls within the scope of the Banking Committee.

I am told that Senator BENTSEN himself wants to come over and be part of the discussion.

The concern is that if this item goes on this bill in this form, it may very well cause this legislation to be what is called blue-slipped over on the House

side, so that it would, in effect, send the legislation down a side track where it would not be able to move as it should. I know that is not the intent of the Senator from Virginia, nor does that accomplish his goal.

So it may very well be that in order to try to find the means by which the proposition he is advancing can in fact take place, that we may want to find a different vehicle, because we do not want to send the Senator's amendment into oblivion or send this bill itself into oblivion.

So I think until we can have a further clarification of that from the Finance Committee, maybe what we ought to do is just—without any prejudice to the amendment—hold it in abeyance to see if we can find an answer to solve these multiple problems.

Mr. WARNER. Mr. President, I am most respectful of the manager's request. I readily accede to it. I said by way of preliminary remarks that I would be happy to accommodate the managers and other Senators if they had problems.

I am quite aware of Senator BENTSEN'S desire to make sure this is handled in a proper way. I am not fully knowledgeable about all of the blue-slip procedures in the House as relates to tax matters, or matters that relate to the Internal Revenue Code. But I am more than happy to engage in a colloquy with the distinguished chairman of the Finance Committee at such time as he arrives.

If the managers wish to make this the pending business and lay it aside at this time, I would be happy to do that.

Mr. RIEGLE. Mr. President, I am going to take the Senator up on that offer.

Let me further add this for the Senator's consideration: We have an energy bill coming up here within a matter of days, which has been reported out of the Finance Committee, and which would be an appropriate vehicle to carry this amendment.

My guess would be that in that very same fashion in which this amendment will gather support here, it would likewise be able to gather support there. But it would be on a train that would take it to the destination where it needs to go. That may be the avenue that is immediately forthcoming that would serve the Senator's purposes, and not end up in a situation where we would get an unintended consequence.

Mr. WARNER. Mr. President, I am readily agreeable to that. So we will lay this amendment aside until the chairman of the Finance Committee or others wish to address it.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the amendment of the Senator from Virginia be temporarily laid aside, and that the floor be open to other amendments, with the thought in mind that we return to the Senator's amendment at a later time.

The PRESIDING OFFICER (Mr. LIEBERMAN). Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2443 TO AMENDMENT NO. 2437
(Purpose: To provide for an effective date for the method of computing liability for certain releases or threatened releases of hazardous materials)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 2443 to Amendment No. 2437.

On page 273, after lines 20:

Amend section 1065 by adding the following language to the end of paragraph (f):

"The amendments made by this section shall become effective immediately upon the reauthorization of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980."

Mr. BROWN. Mr. President, this amendment relates to the Lautenberg amendment, which is included in the managers' amendment offered to this bill. It is a very simple amendment. It simply says that the effectiveness of the Lautenberg section would not become effective until this Congress has reauthorized the Superfund.

The purpose of this is quite straightforward and simple. We ought to, when addressing the question of changing liability under the Superfund, be willing to look at the entire act; that taking it piecemeal, exempting certain parties from liability, is a mistake if we do not take the time to address the entire subject.

I do have an amendment that I would like to offer that addresses the whole question of liability.

Mr. President, I must say that I believe municipalities are treated unfairly under the current Superfund statute. To suggest that volume ought to be the key factor in delineating liability I think is simply plain wrong. The circumstances we find with many of our municipalities is that they have contributed a huge portion of the volume of material that goes into these sites. But they have created a dramatically smaller portion of the hazardous material which caused problems.

To assist our cities' liability, based on their volume alone, is unfair, unreasonable, and I think is a damaging factor with regard to support for this vital cleanup effort.

So I am one who believes, as Senator LAUTENBERG does, that the formula needs changing. I think our municipalities deserve and merit protection and a change in the formula.

Mr. President, the answer is not to change it by itself. The answer is to treat people fairly and evenhandedly and consistently. This, the Lautenberg amendment does not do. All people who deliver waste to a site are not treated fairly or evenhandedly.

The Lautenberg amendment transfers liability between parties to the tune of hundreds of millions of dollars. Let me repeat that, hundreds of millions of dollars of liability are changed under the Lautenberg amendment. That particular amendment has not had the benefit of hearings and markup in the form that it was offered on this floor. The amendment was not available until shortly before it was offered on this floor.

I believe, before you change hundreds of millions of dollars of liability under the Superfund, that ought to be examined thoroughly. And all this amendment says is the Lautenberg amendment becomes effective only when we reauthorize the act. Senator LAUTENBERG, I think, will be holding hearings next year. It has to be reauthorized by 1994. But adopting this amendment on the effective date will give us a chance to look at all the questions in context. There are a lot of questions to look at. Transaction costs for the Superfund liability cleanup sites has seen 88 percent of the cost not to go to cleanup, but costs go to insurance companies and a variety of other litigate matters. In other words, most of the money is simply not being spent to clean up but to debate and litigate the problem. That has to change.

We have to examine the formulas. Some people, who are entirely innocent, who have done nothing wrong, and the product they delivered to waste sites is not the problem that has caused cleanup action, are being found liable under the current act.

We need to deal with the de minimis rule. We need to deal with the allocation with regard to municipalities. I think it is important that we look at all those things and to change the law piecemeal without looking at all of it, I believe, is a great mistake.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BROWN. Mr. President, let me clarify, if this amendment is agreed to, the Lautenberg amendment would become effective. This does not eliminate the Lautenberg amendment at all. It simply says that the effective date on the Lautenberg amendment would be effective after the reauthorization. It seems to me that is an appropriate move with the change of liability of this size.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Is there further debate?

The Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. Mr. President, I know the Senator from New Jersey, who obviously has a deep interest in this amendment, will want to be heard on

it, and I am told he is on his way to the floor. So I think we need to remain in a quorum call until such time as he can arrive and engage the Senator from Colorado.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. 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. PELL. Mr. President, I ask unanimous consent to proceed as if in morning business.

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

The Senator from Rhode Island is recognized.

Mr. PELL. I thank the Chair.

(The remarks of Mr. PELL pertaining to the introduction of Senate Joint Resolution 322 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LAUTENBERG. Mr. President, I would ask what the pending business is, please?

The PRESIDING OFFICER. The pending business is the second-degree amendment offered by the Senator from Colorado to the managers' underlying amendment.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, we are here now discussing something that I thought was thoroughly aired only yesterday in about 3 hours of debate in which many opinions were heard, many views on the question of addressing the problems that municipalities and others face when, in fact, they are simply generators or transporters of garbage, trash.

We discussed at length the fact that municipalities and other parties—that is anyone who simply transported or generated trash—ought to be able to be caught in the web of a diversionary tactic. Because, in many cases we are talking about small business people. We are talking about municipalities strapped to the wall by the elimination of programs that used to be available to them, by having to raise taxes that most of their residents cannot afford. By attempting to engage these innocent parties in lawsuits, the polluters have a chance to run their legal bills, to make certain that they do not come to the day of judgment when they ought to, to make certain that as long as they can put it off, drag it out, drag them down, just keep it going—that is the mission.

For many of the communities in my State and in 450 communities across the country, that kind of defense is so burdensome they cannot even begin to fathom how they might handle it.

We know in town after town, in State after State in this country, that communities are doing without things that help them function, protect their citizens. They are laying off law enforcement personnel, fire fighters—that whole scheme of things—closing libraries.

Now, after we have had this extensive debate yesterday, which was resolved in the vote on the floor, and I remind my friend from Colorado the vote was 52 to 44, and it was a vigorous and very spirited debate, we took care of all of the issues. As is the system here, the majority prevailed, and that is the way we hope it will continue to be. The majority won the issue.

Now we are looking at an attempt to waylay that decision by a significant majority of those voting yesterday.

The amendment is opposed, just as was the amendment yesterday, by the United States Conference of Mayors, the National Association of Counties, the American Communities for Cleanup Equity, the Sierra Club, the Natural Resources Defense Council, Clean Water Action, the Environmental Defense Fund, and U.S. PIRG. This amendment ignores all of the work that was done yesterday and the conclusion that was arrived at.

It is time to act to help the local taxpayer and small business person now. This amendment would make our hard-hit cities wait until the end of 1995 before taking action. Who knows how many small businesses who simply generate or transport garbage could be bankrupt or have their financial stability seriously impaired by this wait?

Part of the debate yesterday focused on whether or not we ought to wait until the end of the current Superfund authorization period, which again is 1995. And the response was very clear. It said: If we have obvious abuses we ought to deal with them and deal with them now.

So rather than take the chance that these legal costs, cleanup costs, are going to be unfairly shifted to local taxpayers as these suits proliferate over the next 3 years, we ought to get on with confirming what it is that was decided after yesterday's discussion.

We voted last night to keep these provisions as they were. Opponents of the provision argued repeatedly that we ought to wait until reauthorization. But once again, the decision was made.

So I urge we once again reject an argument that would defer the implementation of this amendment that would protect the cities and the innocent transporters from being dragged into lawsuits unjustifiably, in many cases, that cost them legal fees, that place them in jeopardy in terms of their financial well-being; and that we ought to get on with doing what this Senate agreed that we would do yesterday.

Mr. President, I move to table the Brown amendment. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. DOMENICI. Mr. President, will the Senator permit me to speak?

Mr. LAUTENBERG. Will the Chair repeat?

The PRESIDING OFFICER. There was not a sufficient second.

Mr. LAUTENBERG. Will the Chair request a show of hands?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LAUTENBERG. Mr. President, I yield the floor.

The PRESIDING OFFICER. The motion to table is nondebatable.

Mr. DOMENICI. Mr. President, I was seeking to speak, and I did not get here in time.

I ask unanimous consent, in spite of the status of the motion I be permitted to speak for no more than 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from New Mexico, [Mr. DOMENICI] has the floor for up to 5 minutes.

Mr. DOMENICI. Mr. President, I ask if the clerk would advise me when I have spoken 3 minutes so I can yield 2 minutes to the Senator from Colorado.

Mr. President, I rise again to indicate to the Senate what a critical vote this is.

The distinguished Senator from Colorado has put in the effectiveness of this amendment, that is the amendment in the managers' bill changing the Superfund law—he has put it into graphic terms regarding that particular facility in his State. If we change the law, it is going to wreck havoc upon the businesses that are in the lawsuit that are going to have to share in the costs.

I understand the cities, and in particular in the Colorado case, the city there, is faced with the burdens of litigation, of the contingent liabilities that are absolutely enormous in these kinds of cases. But I do not think we ought to cavalierly say it does not really matter what it is going to do to business by taking cities out; let us just do it because, after all, the cities have to tax people and they are hurting.

I repeat, businesses in America, large and small, have to make money. You know, we finally arrived at the point in our history that we cannot stop describing business as it is. If they do not make money they go broke. If they go broke, they do not produce jobs, they do not pay people. So, it seems to me, we ought to treat them both fairly. Cities are important. But they are liable. And they are in lawsuits under the

Superfund situation with just the same kind of situation as business.

They are screaming just as business is. They are claiming that they are being sued irresponsibly, just like business is. And I do not believe, with the Senator from Colorado telling us how it is going to hurt businesses that are no more responsible tomorrow than they are today—yet we are going to make them so. Tomorrow they are going to be more responsible—more liable, I should say. They are going to have to pay more because we arbitrarily are going to take out the cities from under this Superfund scheme of liability, which is irrational from the beginning. But now we will make it even worse, but we will say it does not even matter because it is business that is going to pay the bill.

I yield the remainder of my time to the Senator from Colorado.

Mr. LAUTENBERG. Is the Senator asking a unanimous-consent agreement to yield that time?

Mr. DOMENICI. Mr. President, as I understood it I had 5 minutes. I assume that meant 5 minutes under my control. I am yielding part of that time to the Senator from Colorado.

Mr. LAUTENBERG. How much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes remaining. The Chair assumed the 5 minutes would be under the control of the Senator from New Mexico to do with as he wished.

Mr. DOMENICI. I thank the Chair and I thank my friend from New Jersey.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. My intent would be to be concise. My good friend from New Jersey I think has summarized the issue quite well and, I think, fairly. I would merely make two points that deal with, perhaps, details that I think are somewhat different.

The distinguished Senator from New Jersey has indicated we are dealing with municipalities who have not been involved in generating or transporting toxic materials. The amendment does this, including constituent components that may be deemed hazardous substances under this act when they exist apart from municipal waste.

So what is excluded or what will not be counted or available for other liability is the transport of material that is hazardous if handed separately.

So we are not talking about simply benign material here. We are talking about material that would be exempt that is hazardous. And that is what is exempt.

Second, a small item. The suggestion was that this amendment delays until 1995 the effectiveness of the amendment by the Senator from New Jersey. Technically, that is not correct. It delays it until reauthorization.

Let me say to the Senator I understand him using the 1995 date. That is

a reasonable assumption to make. But I simply wanted to take this time to assure the Senator that it is my hope we can reauthorize that act quickly, and I want to pledge my support for getting a bill quickly to the floor and dealing with it.

Mr. President, last—and I want to emphasize this—we are dealing with hundreds of millions of dollars of liability being transferred from one party to another. This amendment that is in the managers' amendment was not available even before we got to the floor, even though the distinguished Senator worked on this issue before and had similar amendments available before.

We should not, I believe, be changing liability of enormous proportions without taking the time to look at the overall bill comprehensively. The amendment is very simple: Do we want to transfer hundreds of millions of dollars in liability without looking at the whole amendment? I think we ought to look at it.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the motion to table the amendment offered by the Senator from Colorado.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Montana [Mr. BAUCUS] and the Senator from North Carolina [Mr. SANFORD] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 42, as follows:

[Rollcall Vote No. 129 Leg.]

YEAS—54

Adams	Fowler	Mikulski
Akaka	Garn	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gore	Nunn
Bingaman	Harkin	Pell
Boren	Heflin	Pryor
Bradley	Hollings	Reid
Bryan	Inouye	Riegle
Bumpers	Kasten	Robb
Burdick	Kennedy	Rudman
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Sasser
Cranston	Kohl	Seymour
D'Amato	Lautenberg	Simon
Daschle	Leahy	Specter
Dixon	Levin	Wellstone
Dodd	Lieberman	Wirth
Exon	Metzenbaum	Wofford

NAYS—42

Bond	Chafee	DeConcini
Breaux	Coats	Dole
Brown	Cochran	Domenici
Burns	Craig	Durenberger
Byrd	Danforth	Ford

Gorton	Lott	Rockefeller
Graham	Lugar	Shelby
Gramm	Mack	Simpson
Grassley	McCain	Smith
Hatch	McConnell	Stevens
Hatfield	Murkowski	Symms
Jeffords	Nickles	Thurmond
Johnston	Packwood	Wallop
Kassebaum	Pressler	Warner

NOT VOTING—4

Baucus	Roth
Helms	Sanford

So the motion to lay on the table the amendment (No. 2443) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I yield now to the Senator from Virginia, who, I think, wants to make a statement.

AMENDMENT NO. 2442

Mr. WARNER. Parliamentary inquiry. Mr. President, the pending business before the Senate at this time, I believe, is the amendment of the Senator from Virginia; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, momentarily, I shall ask unanimous consent that the amendment be withdrawn. Before doing so, I first want to thank the manager of the bill and the distinguished chairman of the Finance Committee, the Senator from Texas, and others who had brought to my attention that there is, in one clause in my amendment, a basis for the allegation that this is a revenue measure and, therefore, it would subject the underlying bill to certain procedural difficulties in the other body. For that purpose, I desire to withdraw my amendment.

Mr. President, I will continue to pursue my objective in this amendment, because I think it is imperative that the American public be given more facts about tax-exempt organizations so they can be better informed as to how their money is expended, and the relationship between the net sum that eventually goes to the ultimate beneficiaries of tax-exempt organizations as it compares with the organization's expenses.

I thank the distinguished chairman of the Finance Committee. He has offered at this time, not to support me, but first to look at it and to have his committee staff work with me to see if, in fact, I can reoffer this legislation on subsequent legislation which is germane to the nature of my amendment.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Virginia for his cooperation on this procedural matter that affects the jurisdiction of the Finance Committee. We will be delighted to work with him to see that we fulfill the procedural questions. Had this been done otherwise, of course, we would have had fur-

ther problems on the House side. I appreciate the Senator's consideration. I thank the Senator.

Mr. WARNER. I thank the Senator from Texas and the managers.

I ask unanimous consent that my amendment may be withdrawn.

The PRESIDING OFFICER. The Senator has that right.

The amendment is withdrawn.

The amendment (No. 2442) was withdrawn.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am currently awaiting an evaluation of this amendment by two Senators. I do not think I will send it to the desk until I get an evaluation from them. But let me suggest what I am going to try to do. I think that, subject to maybe changing some of my language, the Senate would actually welcome this.

I do not think there is any doubt that this Senate, in the last 2 days, has at least said one thing about the Superfund. I regret that it is before us, but it happens to be, just because a little piece of the Superfund liability is before us. I think what has come out is that this Superfund, with all of its ramifications, is an extremely critical piece of legislation, and that, in fact, the way it is being administered, handled in the courts of law, used or abused by the attorneys who get involved almost from day one, abused by some companies who have learned the tricks of how to get out of this, this law is so complicated and its ramifications so little known that we ought to have some detailed information very soon about just what is going on.

I will wait a while and see what Senator LAUTENBERG thinks about it, and the distinguished majority leader's staff is looking at it. We talked with them for a number of months. Essentially, what we would like to do is to make sure that, in 15 months, we have done three things: We have directed the Administrator of the EPA, by December 31 of 1992, to compile a host of information on sites on the National Priority List [NPL], and the centralizing of information into one computer base. The purpose of doing this is to ensure that any analysis done on the program will pull the same base of information together. Much of this information has already been developed by the agency; some has not. But I do believe that the task can be completed by the end of the year, as mandated in this provision. That would provide a very relevant base of information that is all oranges. It is oranges and oranges, because we put it all on the computer base which is similar.

Second, the amendment charges the General Accounting Office with the task of reviewing all relevant governmental and other studies that have

been performed to assess the act and, by July 1 of 1993, provide a report to the Congress evaluating these studies. The purpose of this provision is to have an impartial analysis of the myriad of relevant studies in order to assist Congress when we begin to look at this seriously and in a profound way.

It is my understanding that the GAO, because this has been such a big subject matter of investigation, has developed considerable expertise on the Superfund law and, therefore, I think it is appropriate that we ask them to look at all the myriad of studies—some complimentary, some critical, some in the middle—and give us their assessment of these studies so that this myriad of outside information will be more relevant, because it is understandable.

Third, the amendment would require that the Administrator of the Agency for Toxic Substances and the Disease Registry, with the concurrence of the EPA and in consultation with the National Academy of Science in the National Academy of Engineering, prepare a report to Congress which examines a statistically significant number of sites on the NPL with respect to present and future risks, based on actual exposure data or estimates of data to human health and the environment presented by these sites, not all six of them, but a statistically sound number. Based on that data, the report would look at the costs of remedial measures based on the risks posed and the viable uses of sites after mediation, taking into account the implications of land use policy and the effect of post cleanup liability.

This expert group, working in conjunction with the EPA, would be required to provide a reasonable opportunity for written comments on the report prior to submission to Congress. That part was put in, because even though this is not technically a conclusive kind of action, it was felt that they should keep it open for written comments from whomever and whatever kind of institution would want to make them.

So I am prepared to tell the Senate that we should not be adopting substantive amendments at this time. Instead Congress should be actively seeking information that will be needed for us to make informed reasonable decisions. But since we have opened the door, it would appear to me that it might be even more appropriate to do this in behalf of the country, in behalf of possible victims of hazardous wastes, and in behalf of cities, American business and, yes, I might say we might get a bird's eye view of how the legal community is acting with reference to the Superfund.

With that I ask my friend from New Jersey if he sees any reason that this amendment should not be adopted or, if he has any suggestions for amending it. I certainly would be interested in his

observations if he cares to share them with me.

Mr. LAUTENBERG. Mr. President, I thank the Senator from New Mexico for offering us an opportunity to review it, to see whether or not there are any objections or whether we can resolve any differences in some face-to-face discussion.

I would have to ask the Senator from New Mexico whether we could just buy some time here for a little bit and look at it in some more detail. We have just now seen it. The Senator in his remarks did make mention of the fact that there have been a number of studies and there are ongoing requests now that are being reviewed. I would like to see if we can get some kind of consolidated point of view, because as I looked at this, cursorily, what I saw was that there was a request that GAO review other reports that are being developed. And as the good Senator knows I do not know how much time they have or how many requests they have, but I know they are very hard at work.

There is also a reference here to ATSDR. I do not know if they have the money to do this. I would like a little time to make some inquiries and then I will be happy to get back to the Senator. I appreciate the fact that he had not submitted this and we will have a chance to chat together or make a decision a little bit later on.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank my friend from New Jersey. Let me just suggest, there is nothing at all about this amendment, from what I can tell, that is in any way biased one way or another.

This is not an indictment of the program or a statement that it is grand and glorious. It merely indicates that there is so much comment coming out on it that one could hardly read the reports, and there is so much discussion that one wonders what is real and what is just scuttlebutt. Therefore, I thought it might be appropriate to bring it all together under the two or three headings that most people are concerned with, and it might shed some real constructive light on it.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. 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. LIEBERMAN. Mr. President, I ask unanimous consent that I may be permitted to speak as if in morning business for up to 5 minutes.

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

THE SUPREME COURT'S DECISION IN LEE VERSUS WEISMAN

Mr. LIEBERMAN. Mr. President, I am surprised and disappointed by the Supreme Court's decision in the case of *Lee v. Weisman*, which was issued this morning, and I rise to say a few words about it.

Mr. President, throughout my career, both as a lawyer and most recently before coming to the Senate as attorney general for the State of Connecticut, I have argued for a particular broader, less exclusive view of the religion clauses of this first amendment.

In this case, I think the Supreme Court has acted in a way that I feel is not consistent with the dictates of the Constitution or the best interests of the United States of America. In the case of *Lee v. Weisman*, a public school graduation ceremony included a brief nondenominational prayer in which God's blessing was asked, thanks to God were offered, and amen was uttered.

Well, the Supreme Court today said no more of that; no more to a practice that is probably older than our Constitution itself. For more than 200 years, students in this country of ours have heard prayers at their graduation ceremonies, and I believe that we are a stronger not a weaker nation as a result of it.

Mr. President, we would do well to remember that our Constitution promises freedom of religion, not freedom from religion, and that is because, as a matter of historical fact, we are a religious nation, founded by people who believed in God and were given sustenance and purpose by that belief; people who freely worshipped God, who in fact invoked the name of the Lord in our Constitution and spoke explicitly of God and the Creator in the Declaration of Independence.

It is very hard to imagine that the people who wrote these great documents that have held us together and given us purpose for now more than two centuries intended that these documents be used to prohibit the mention of God's name in a public school graduation ceremony.

Mr. President, the laws of a society should express the values of that society. To me, one of the great values of American society, which I believe is shared by most all Americans, is a belief in God. Today the Supreme Court puts that widely and deeply held value further outside of our law, and thereby diminishes our society. We suffer from too little mention of God's name in public places, not from too much mention.

Mr. President, we have a long and I think proud tradition of nondenominational prayer being offered in public places—including this Senate itself—which has enriched our lives and made us a more principled nation.

I understand that the Supreme Court, in its decision today, distin-

guishes between prayer at public schools and prayer in other public places. But I think that a public school graduation is even more like a public ceremony where the Court says that prayer is allowed than it is like a school classroom where the Court says it is not allowed. And I also believe that the students who are graduating will lose much more than they will gain from the prohibition of prayer at their graduation.

Mr. President, we are in fact one nation under God, as our children pledge most every day at their schools. I regret that today's Supreme Court decision will prohibit them from thanking God and asking for God's continued blessings as they graduate from those schools.

I thank the Chair.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. 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. EXON. Mr. President, I ask unanimous consent that we set aside the pending matter and that I be permitted to proceed for 2 minutes as if in morning business for the purpose of introducing a piece of legislation.

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

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

(The remarks of Mr. EXON pertaining to the introduction of S. 2888 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. I thank the Chair and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2444 TO AMENDMENT NO. 2437

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senators DOLE, SEYMOUR, and NICKLES, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. DOLE, Mr. SEYMOUR, and

Mr. NICKLES proposes an amendment numbered 2444 to Amendment No. 2437.

Mr. DOMENICI. 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 appropriate place insert the following:

SEC. . NATIONAL ECONOMIC STRATEGY.

(a) It is the sense of the Congress that legislation should not be enacted that would:

(1) increase taxes on the American people and or small and large businesses over four years by at a minimum of \$150 billion;

(2) increase taxes by an additional \$10 billion on all businesses both small and large by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

(3) increase spending for various and sundry domestic programs over the next four years by over \$190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

(4) increase Federal spending by nearly \$200 billion for health care programs and impose another \$100 billion in taxes on employers to partially pay for this spending;

(5) provide for a child tax credit or a middle income tax cut that would add another \$45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

(6) increase the Federal deficit and not achieve a balanced budget in this century;

(7) terminate only one Federal program (the honey price support program);

(8) reduce mandatory spending by less than one-half of one percent over the next four years;

(9) reduce defense obligational authority by \$90 billion more than currently planned and in addition to the \$220 billion of reductions already planned; and

(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. D'AMATO. 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. D'AMATO. Mr. President, I ask unanimous consent that I be permitted to proceed as in morning business for up to 10 minutes.

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

STOP SLOBODAN MILOSEVIC

Mr. D'AMATO. Mr. President, I rise today to call for the coordinated action of the United States, the European Community, and NATO to become involved in what is long overdue: concerted action to stop Slobodan Milosevic from his plan of territorial expansion and genocide for all non-Serbs of Croatia, Bosnia, and Kosovo.

We have seen his work, and it is appalling. And the world stands by almost indifferently wringing its hands while his forces cut down civilians as they stand in line for food. They shell humanitarian aid trucks and they bomb churches. Serbian forces have shown utter disregard for human life and care only to expand the aim of a greater Serbia at the expense of the lives of non-Serbs. They even round up non-Serbian residents of cities like Dobrinja and take them away to camps. Just like Adolf Hitler and Saddam Hussein before him, the Butcher of Belgrade must be stopped. The United States, in coordination with the European Community and NATO, must act to put a halt to Milosevic's war against the innocent Bosnians. My colleague, Senator DOLE, support a four-point program to stop the slaughter in Croatia, Bosnia, and Kosovo. I fully support him in this necessary and just effort. It is the only way to stop the killing.

The plan is very similar to that adopted to protect the Kurds from the onslaught of Saddam Hussein. Just as that killer recklessly pursued innocent men, women, and children, Milosevic has done the same. As in Iraq, the plan involves the protection of the civilian population from Serbian forces. It also involves the delivery of all aid and supplies necessary to stop Serbian aggression.

First, the use of NATO forces is long overdue. People are being slaughtered. Peace must be re-established in Bosnia and war must be prevented from spreading to Kosovo. Serbian artillerymen sit in the hills above Sarajevo and fire at the civilian population of the city. If need be, air strikes must be carried out to suppress this shelling and allow the people to live in peace. The slaughter must be stopped.

Second, a force must be created to establish air cover for the people of Bosnia. Just as with the Kurds in northern Iraq, the people of Bosnia, Croatia, and even Kosovo are right now left wide open to attack from Serbian jets. Air cover must be supplied and air traffic must be monitored to deny the Serbian jets the ability to bomb cities and towns. Milosevic must understand that if his planes take off they will be presumed to be hostile and they will be shot down.

Third, a total economic embargo must be put in place against Serbia and Serbian-controlled territory, allowing nothing in except for humanitarian aid. It must be enforced from both the land and sea. There must be coordination with the surrounding nations of Italy, Austria, Hungary, Romania, Bulgaria, and Greece to implement the embargo. As with Iraq, nothing but humanitarian aid must be allowed into Serbia until Milosevic withdraws his forces back to Serbia.

Finally, the United States, either overtly or covertly, must supply all

necessary equipment to the people of Bosnia, Croatia, and Kosovo through the port of Trieste, Italy, the closest NATO port, or any other available ports of entry. They must be supplied with all that is necessary to stop Serbian aggression. The killing must end now.

The people of Bosnia must be protected. They must be saved from the onslaught of a dictator committing nothing short of genocide.

Further, Serbian aggression must also be avoided. As I warned 2 weeks ago on the Senate floor, Milosevic's next target is Kosovo. He must not be allowed to carry his war of expansion into this beleaguered land.

If we fail to stop the killing now, we will be providing a death sentence for all the non-Serbs of the former Yugoslavia. Milosevic is out of control and he must be stopped. Only through joint United States, European Community, and NATO action can the violence be ended and Milosevic put back in his box.

Mr. President, there is no oil in Bosnia, Croatia, and Kosovo, and it may be that the world powers only act when they see their own economic interests, being disadvantaged. There is something more important than oil, though. There are millions of people whose lives are being threatened. Today one million people have been made homeless or refugees. Tens of thousands, on a daily basis, face bombardment and starvation. Too many others have been killed for no other reason than their ethnic background, or their religion, whether they be Muslims or Catholics.

I have to tell you it is an outrage that it has taken this Nation a year to bring about sanctions against Serbia for its actions against Croatia, Bosnia, Slovenia, and Kosovo. We ought to be ashamed of ourselves. Where is the moral leadership for standing up for what is right? I heard the Deputy Under Secretary of State say Milosevic fooled him. Moreover, why is the peace process in Yugoslavia strictly a European matter? How can we wash our hands of this?

Finally, we have broken diplomatic relations with this killer, a thug, a hard-core Communist. We should have cut off economic aid to what was formerly Yugoslavia and Milosevic a year ago and sent him a clear message. Just like when I came down to the Senate floor in May 1990 and questioned why we were giving aid to Saddam Hussein, you would have thought that I was attacking Mother Teresa. Everybody raced to the floor to take me on: "Oh, we should not stop aid to him," they said. What were we doing providing that killer with economic aid while he was using poison gas against innocent women and children. Now we want to investigate exactly what Iraq got from us.

Let me ask why we stand by now and wring our hands as we watch the pictures of the horrible slaughter of the innocent? We should be ashamed of ourselves. Why do we have NATO? Why do we have tens of thousands of troops there? Why do we not bring together our allies and say, my gosh, we have to provide air cover to insure that his planes do not attack innocent civilians in the cities of Bosnia, Croatia, and Kosovo.

Let us see to it that if we have to knock out his tanks and artillery, with NATO forces, we do it. Let us stand for the human dignity and freedom of the innocent people of Bosnia, Croatia, and Kosovo. Do we only need to have oil and economic interests in a particular land, or can we stand up for what is right? Do we have the courage to do the right thing, not because it is politically popular or do we need a war to bail ourselves out of trouble. There are people who are being slaughtered and as a nation act as if we do not give a damn. That is our problem.

I have to tell you, this is a tragic situation that we have allowed to unfold before us, and we cannot claim that we did not know. There are those who say we allowed the genocide of the Jews to take place because we did not know. Are we going to stand here and say that we do not know now that the innocents are being slaughtered today; that people who seek nothing more than food are being gunned down; that we have ethnic purification taking place—where people being segregated and sent to camps on the basis of what their religion is? This is incredible. We sit by as if nothing is taking place.

I have to tell you, I thought that we had a purpose and a reason for having a strong presence in NATO. And, yes, that it was for our protection, but also for standing up for the rights and the dignity of people throughout this world. I think the people of America care and I would like to see some leadership in this regard. I think it is long overdue. We must stand up for the rights of those who are being oppressed.

I hope we can begin to act now, rather than later. It is already too late for many. But there are many others who desperately need our help.

Mr. President, 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. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

(At the request of Mr. RIEGLE, the following statement was ordered printed in the RECORD.)

● Mr. SANFORD. Mr. President, I rise today in support on the Federal Housing Enterprises Regulator Reform Act of 1992. This is a solid piece of legislation. We have worked on this bill for quite some time, and I am pleased that we were able to craft a feasible compromise that will truly overhaul the regulatory structure of Fannie Mae and Freddie Mac.

Fannie Mae and Freddie Mac have played a major role in expanding the supply of mortgage credit. Overall, I have been very pleased with the manner in which these two housing-related Government-sponsored enterprise [GSE] have operated, however, the \$900 billion these two GSE's liabilities hold does pose potential financial risk to the taxpayers.

I am particularly pleased with the sound and responsible financial standards contained in this bill. By including capital requirements which require GSE's to maintain capital not only to address the current financial condition of GSE's, but also the potential financial condition of GSE's in periods of adverse economic conditions.

In addition, I am pleased that this legislation includes needed incentives to clarify and ensure that Fannie Mae and Freddie Mac meet the housing missions that are so clearly defined in their charters. It is important that they meet the housing finance needs of low- and moderate-income residents.

This is a strong bill which I am pleased to support. It is my hope that the Senate will move quickly on this important legislation so that it can soon become law. ●

AMENDMENT NO. 2445 TO AMENDMENT NO. 2437
(Purpose: To authorize a number of studies of the Comprehensive Environmental Response, Compensation and Liability Act of 1980)

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senators MITCHELL, and MURKOWSKI, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. MITCHELL, and MURKOWSKI, proposes an amendment numbered 2445 to amendment No. 2437.

Mr. DOMENICI. 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 appropriate place in the manager's amendment, insert the following new section:

"SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

"(a)(1) The Administrator of the United States Environmental Protection Agency

shall provide to the Senate Environment and Public Works Committee and the House Energy and Commerce Committee by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established under the Comprehensive Environmental Response Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

"(A) Site name, number, state and total number of operable units;

"(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

"(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

"(D) Whether remedial action is underway, when it was commenced, and whether it has been completed and if so, when, and if not, when expected to be completed;

"(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

"(i) owner/operator;

"(ii) transporter;

"(iii) person that arranged for disposal or treatment;

"(iv) municipality;

"(v) state agency;

"(vi) lender or State or Federal lending agency; or

"(vii) Federal agency;

"(viii) any other entity; and

"(ix) that portion of the site that cannot be attributed to any potentially responsible party including dollar amount and volumetric share.

"(F) Site classification;

"(G) Whether the facility is still in operation;

"(H) Number of Records of Decision to be issued;

"(I) Description of elements of removal and/or remedial action.

"(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

"(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through de minimis settlements and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance.

"(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

"(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

"(N) Description of settlement and enforcement activities;

"(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

"(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the Report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(b) The General Accounting Office shall undertake a comprehensive review of relevant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a Report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(c)(1) No later than September 30, 1993, the Administrator of EPA, and in consultation with ATSDR, the National Academy of Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or any other response has been completed, taking into consideration the implications of Land use policy at such sites and the effect of post-clean-up liability on future uses.

"(4) The Administrator of the United States Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the report as part of the submission to the Congress."

The PRESIDING OFFICER. The Chair advises that the amendment is not in order at this time.

Mr. DOMENICI. I understand.

Mr. President, I ask unanimous consent that the previous Domenici-Dole amendment that was pending be set aside temporarily for the purpose of considering this amendment, after which we return to the previous amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I explained this amendment in some detail earlier in the afternoon. Since that

time, a few changes have been made. They are more or less technical in nature. That has brought some bipartisan support.

Mr. President, this provision amends the Superfund law. It is this Senator's belief that this is the Superfund amendment that should be part of this bill—not the amendment offered by the Senator from New Jersey and voted on by this body yesterday.

My amendment is quite simple, despite its length. It mandates a number of studies to be done on the Superfund Program over the next 15 months in order to gather relevant information prior to a comprehensive reauthorization.

The amendment has three parts.

First, the Administrator of the EPA by December 31, 1992, is charged with compiling a host of information on sites on the National Priorities List [NPL] and centralizing this information into a computer base. The purpose of doing this is to ensure that any analyses done on the program all pull from the same base of information. Much of this information has already been developed by the agency, some has not. But I do believe that the task can be completed by the end of the year, as mandated by this provision.

Second, the amendment charges the General Accounting Office with the task of reviewing all relevant governmental and other studies that have been performed to assess the act and by July 1, 1993, provide a report to the Congress, evaluating each study. The purpose of this provision is to have an impartial analysis of every relevant study in order to assist the Congress when we begin the reauthorization process. It is my understanding that the GAO has considerable expertise on the Superfund law and is an appropriate agency to perform such a review.

Third, the amendment requires that the Administrator of the Agency for Toxic Substances and Disease Registry [ATSDR]—with the concurrence of EPA and in consultation with the National Academy of Sciences and the National Academy of Engineering—prepare a report to the Congress which examines a statistically significant number of sites on the NPL with respect to present and future risks based on actual exposure data or estimates to human health and the environment presented by each site.

Based on that data, the report would look at the costs of remedial measures based on the risks posed and the viable uses of sites after remediation has been completed, taking into account the implications of land use policy and the effect of post-clean-up liability. ATSDR and EPA would be required to provide a reasonable opportunity for written comments on the report prior to its submission to the Congress.

Mr. President, I think yesterday's debate focused this body on the fact that

there are serious problems with the Superfund Program. I am not prepared to tell you what the solution is to these problems.

But I am prepared to tell you that we should not be adopting substantive amendments at this time. Instead, the Congress should be actively seeking the information that will be needed for us to make informed, reasonable decisions on the future of this program when we begin the reauthorization process next year.

I urge my colleagues to carefully consider what is the best and most responsible approach that should be taken.

Might I say to the majority leader, I want to get right off this and back to the status that we had before my request. But I am told that Senator CHAFEE wants to look at this amendment. He is the ranking Republican on the committee. I would like to put in a quorum call while I seek concurrence from the Senator.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 2445, AS MODIFIED, TO
AMENDMENT NO. 2437

Mr. DOMENICI. Mr. President, I send to the desk a modified amendment and ask that it be immediately considered.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2445), as modified, is as follows:

At the appropriate place in the manager's amendment, insert the following new section:

SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

"(a)(1) The Administrator of United States Environmental Protection Agency shall provide to the Congress by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established under the Comprehensive Environmental Response, Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

"(A) Site name, number, state and total number of operable units;

"(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

"(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial

design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

"(D) Whether remedial action is underway, when it was commenced, and whether it has been completed and if so, when, and if not, when expected to be completed;

"(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

"(i) owner/operator;

"(ii) transporter;

"(iii) person that arranged for disposal or treatment;

"(iv) municipality;

"(v) state agency;

"(vi) lender or State or Federal lending agency; or

"(vii) Federal agency;

"(viii) any other entity and

"(ix) that portion of the site that cannot be attributed to any potentially responsible party. Including the dollar amount and volumetric share.

"(F) Site classification;

"(G) Whether the facility is still in operation;

"(H) Number of Records of Decision to be issued;

"(I) Description of elements of removal and/or remedial action.

"(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

"(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume, and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through de minimis settlements, and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance.

"(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

"(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

"(N) Description of settlement and enforcement activities;

"(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

"(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the Report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(3) In submitting the report the Administrator shall include a summary of the costs including preparing the report.

"(b) The General Accounting Office shall undertake a comprehensive review of rel-

evant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(c)(1) No later than September 30, 1993, the Administrator of EPA, and in consultation with ATSDR, the National Academy of Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or any other response has been completed, taking into consideration the implications of land use policy at such sites and the effect of post-clean-up liability on future uses.

"(4) The Administrator of the United States Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the report as part of the submission to the Congress."

Mr. DOMENICI. Mr. President, I think I have completed my discussion of this amendment, other than to note that this amendment now adds one item. It does charge the Environmental Protection Agency with an estimate of this study's cost which Senator CHAFFEE thought was a good idea. Otherwise, it is exactly as I heretofore described it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. RIEGLE. Mr. President, let me say we are prepared as managers of the amendment to accept the amendment with the modification.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 2445), as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I shall suggest the absence of a quorum.

Mr. RIEGLE. Mr. President, before the Senator does, if I may say, it is our understanding now that we have finished work on the managers' amendment. If so, what I would like to try to do is to be able to act upon the managers' amendment. That leaves the bill itself open to amendment for any other

purposes anybody wants to offer, but I think we have wrapped up the substantive items that relate to that.

Mr. DOMENICI. Mr. President, might I say to my friend from Michigan, we are close to that. What we are waiting for is the majority leader and me to enter into an agreement with reference to a debate on the amendment that I have offered and we will take care of that in a moment and then we will be finished.

Mr. RIEGLE. Very good.

Mr. DOMENICI. But for now I think we will have a quorum call.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The assistant legislative clerk continued with the call of the roll.

Mr. COATS. 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. COATS. Mr. President, I ask unanimous consent to speak as if morning business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PRAYER AT GRADUATION

Mr. COATS. Mr. President, it is deeply disappointing that the Supreme Court has forbidden the mention of God in public school graduations. They have chosen to continue on a path that threatens religious expression, and denies our history.

When the Supreme Court decided its landmark school prayer case in 1963, Abington versus Schempp, two dissenting Justices warned that "Unilateral devotion to the concept of neutrality can lead to * * * not simply noninterference and noninvolvement with the religious which the constitution demands, but a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious."

No phrase could more accurately capture the decision handed down today—"A brooding and pervasive devotion to the secular." It denies the central role of religion in our public life. And it further reinterprets the separation of church and State to forbid the accommodation of religion in our society.

This ruling says, in essence, that our children must be carefully protected by government from even hearing the

name of God at a public ceremony. But this simply cannot be justified from the facts of our heritage. Religion was intended to play an important part in America's public life—not to favor any sect, but to affirm our traditions and beliefs, and to assert the source of all our liberties. America has a history of religious accommodation, not secular hostility, from our beginnings to our recent past.

George Washington said in his Farewell Address:

Of all the dispositions and habits that lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these firmest props of the duties of men and citizens.

Justice William O. Douglas, the great libertarian, writing in 1952 in *Zorach versus Clauson*, argued:

We are a religious people whose institutions presuppose a supreme being. When the State *** cooperates with religious authorities, it follows the best in our traditions. To hold that it may not, would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who believe.

Religion is not just part of the practice of our Nation, it is part of the theory of our founding. When public institutions are systematically stripped of religious influence and symbols we deny our history. When we accept a rigid separation between church and state, both, in Russell Kirk's words, "Rot separately, in separate tombs."

When all reference to religion is omitted from our public life, we have declared off-limits the expression of people's deepest motivations and highest beliefs. An appeal to any authority is permitted, except this one. G.K. Chesterton described this as "a taboo of fact or convention, whereby we are free to say that a man does this or that because of his nationality, or his profession, or his place or residence, or his hobby, but not because of his creed about the very cosmos in which he lives."

Columnist Joseph Sobran makes the point:

The prevailing notion is that the state should be neutral as to religious, and furthermore, that the best way to be neutral is to avoid all mention of it. By this sort of logic, nudism is the best compromise among different styles of dress. This version of pluralism amounts to theological nudism.

We do not serve our children by shielding them from the mention of God in a public ceremony—covering their ears like secular Victorians, fearful of corruption. There is a difference between religious indoctrination, and the simple acknowledgement of the Creator. The Court seems to have lost the ability to make that distinction.

No one benefits from a naked public square—a public life scrubbed of the sacred. Religious people lose important

rights, we are disconnected from our history, and our Nation is ultimately impoverished.

Mr. President, I yield the floor and I note that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

The Senate continued with the consideration of the bill.

IN SUPPORT OF THE DODD AMENDMENT TO ELIMINATE ABUSES IN PARTNERSHIP "ROLLUPS"

Ms. MIKULSKI. Mr. President, I want to speak today in support of Senator DODD's legislation to curb abuses in investments called partnership rollups. I was one of the first cosponsors of this bill, and I am glad to see that the great majority of the Senate has come to realize the urgent need for this legislation.

A limited partnership rollup does not mean a lot to most Americans. But some people in Maryland know what it is—and they found out the hard way. They saw their hard-earned savings disappear so that a couple go-go boys could make large fees. And these fees were paid despite the fact that Marylanders and thousands of American investors were losing millions of dollars in savings.

One Marylander came into my office to tell me her story. She is a widow who invested her husband's life insurance settlement in a way she thought was safe and conservative. And, after a couple years of a pretty good investment, she heard that her managers wanted to try something new—a rollup.

She had heard about rollups—that they cost investors 70 percent of their investments on average. She did not want her investment rolled-up, but there was not much she could do about it. Old rules and regulations prevented her from getting in touch with other investors, and prevented her from pulling her money out, even if she did not want to change her investment! Instead, she was faced with risking her savings and financial security because some hot-shot partners and lawyers wanted to risk her and other limited partners' money.

It is wrong to stand by and let dishonest managers cheat good-faith investors because of loopholes in the law, and it's time to do something about it. That is why I am glad to see Senator DODD's bill come up before the Senate. And why I am glad to cast my vote to get this passed and put into law very soon.

This amendment takes some important and overdue steps to give investors their rights back. It allows for more communication among investors, and allows them to organize to protect their investments. It also makes very important changes to equalize the power balance so that every investor has a fair say in what is done with their money.

Americans need this legislation, and I commend Senator DODD for leading the charge to get it passed. I am proud to join him and cast my vote for fairness to investors.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator DOMENICI's amendment be withdrawn;

That the Senate then proceed to vote immediately without any intervening action or debate on the Riegle-Garn amendment No. 2437;

That upon disposition of that managers' amendment, Senator DOMENICI be recognized to offer an amendment on which there be 30 minutes for debate, the first 10 minutes and the last 10 minutes of which be under the control of Senator DOMENICI, the middle 10 minutes of which be under the control of Senator SASSER;

At the conclusion of that debate or the yielding back of time, Senator DOMENICI will withdraw his amendment;

That once that amendment is withdrawn, Senator SASSER be recognized to offer an amendment, on which there be 30 minutes of debate, the first 10 minutes of which and the last 10 minutes of which be under Senator SASSER's control, and the middle 10 minutes of which be under Senator DOMENICI's control; at the conclusion of that debate or the yielding back of time, Senator SASSER will withdraw his amendment;

That upon the withdrawal of the Sasser amendment, Senator NICKLES be recognized to offer is substitute amendment on the balanced budget constitutional amendment;

That immediately after it is offered, Senator BYRD be recognized to offer two amendments to Senator NICKLES' amendment.

That no further amendments or motions be in order for the remainder of the day, and when the Senate resumes consideration of the bill tomorrow, Senator NICKLES be recognized to speak for up to 2 hours.

At the conclusion or yielding back of his time, Senator BYRD be recognized to speak.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I would like now to announce to the Senate an understanding that I believe is fair and which has been agreed to by the Republican leader with respect to the order in which the Senate will consider the balanced budget amendment

and amendments thereto. I hope that all Senators will work within the terms of this understanding. The understanding is as follows:

Pursuant to the unanimous-consent agreement just approved, Senator NICKLES will offer a substitute amendment. Senator BYRD will then offer the next two amendments, in order, to the Nickles substitute.

At a time tomorrow to be agreed on by the majority leader and the Republican leader, Senator DOLE will be recognized to offer a perfecting amendment to the Nickles substitute.

After a reasonable time to review that amendment, and at a time mutually agreed upon by the two leaders, Senator BYRD will be recognized to offer an amendment to Senator DOLE's perfecting amendment. That would then fill up the right side of the so-called amendment tree.

After a reasonable time to review this amendment, and at a time mutually agreed upon by the two leaders, Senator DOLE will be recognized to offer a perfecting amendment to the text proposed to be stricken by the Nickles amendment. After a reasonable time to review this amendment, and at a time mutually agreed upon by the two leaders, Senator BYRD will be recognized to offer an amendment to Senator DOLE's amendment. This would fill up both sides of the amendment tree, and thus the amendment process, except for the available motion to recommit, and amendments thereto, which are not addressed by this understanding.

Although this understanding does not address a motion to recommit, I have requested and received from Senator DOLE his assurance that if a Republican Senator intends to make a motion to recommit, I will be notified in advance so that I will then be able to exercise my right under the rules to offer the two available amendments to that motion to recommit. I have given Senator DOLE my assurance that if a Democratic Senator intends to make a motion to recommit, Senator DOLE will be notified in advance.

Since a formal consent agreement could not now be agreed upon, we are proceeding under this informal understanding. However, Senator DOLE and I hope and expect that Senators on both sides of the aisle will honor this understanding.

Mr. President, I invite the comment of Senator DOLE to affirm the accuracy of what I said, or if it is not accurate to so state.

Mr. DOLE. The majority leader is correct. I wonder if we might modify it where it reads "Senator NICKLES," could it be "or his designee," or "Senator DOLE or his designee" be recognized, and that would not necessitate my being on the floor all that time?

Otherwise, according to the understanding we have had with reference to

motions to recommit, the majority leader is correct. If there is any motion to recommit on this side, I assume we would notify him in advance, and if that slips through, we would put in an immediate quorum call after the motion to recommit is sent to the desk, and you could preserve your right, without being on the floor every minute. The same would be true, as the Republican leader, I would not have the same right of recognition as the majority leader.

Mr. MITCHELL. I have no objection to the modification stated by Senator DOLE.

The PRESIDING OFFICER. Without objection—

Mr. EXON. Reserving the right to object, I would like to make an inquiry.

As I understand the unanimous-consent agreement proposed by the majority leader, it provides for a sense-of-the-Senate matter to be introduced by someone from that side of the aisle, critical of or questioning the national economic plan announced by Governor Clinton, a candidate for President of the United States; and following that, there will be a half-hour for someone on this side of the aisle, the majority leader or someone else, to make some sense-of-the-Senate resolution regarding the economic plan of the President of the United States, and then both of those amendments of sense-of-the-Senate resolutions would be withdrawn; is that correct?

Mr. MITCHELL. That is correct.

Mr. EXON. Well, I shall not object, Mr. Leader, but it seems to me that going through these kinds of exercises and shams is further evidence of what this Senator has been talking about and complaining about for the last several days now, with regard to the fact that, among other things, we seem to work overtime around here making the U.S. Senate something more than I think most of us would like it to be, and that is a serious discussion and debate of the issues that confront the country.

So I shall not object, because at least the only constructive thing that I view for the amendment offered by that side of the aisle, which is critical, as I understand it, of Governor Clinton, and one on our side of the aisle, which is critical of the President, is more and more of an exercise in partisan politics that has this organization bound up to the place that it is almost beginning to be unworkable, if not unbearable.

The only good thing about it is that, for whatever reason that I am not sure I fully understand, there has been an agreement to limit the ceilings, and I suspect from that standpoint we are beginning to make some progress, even though it is, in my opinion, thinly disguised.

So I shall not formally object to the unanimous-consent request, but I do strenuously object to the lack of

progress on the many matters that face this Nation. I yield the floor.

The PRESIDING OFFICER. The previous order is modified, as requested by the Senator from Kansas.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I would like to respond to my colleague and explain the circumstances which led to the propounding of this agreement. Earlier today, Senator DOMENICI offered an amendment which deals with the national economic strategy proposal. He has a right to offer the amendment under the rules of the Senate.

I asked him to withdraw the amendment and to permit us to proceed to the consideration of the balanced budget amendment. He indicated that he still wished to proceed with the amendment.

I advised him that if he proceeded with that amendment, obviously, there would have to be counteramendment on this side to permit the case to be made from both sides. I would be very happy if both amendments were withdrawn without any debate; but a Senator has a right to offer an amendment and has a right to debate the amendment.

Senator DOMENICI has that right. Therefore, I then requested, in view of his statement that he insisted on going forward, as is his right, that we agree to an orderly consideration of it and limiting the time in the fashion so described. I believe I have accurately recounted my conversations with the distinguished Senator from New Mexico.

I will be glad to yield to the Senator from Tennessee, if he wishes, or to the Republican leader.

Mr. DOLE. Can I ask one nonrelated question? In the event that tomorrow we should receive from the House some legislation dealing with the work stoppage and the railroads, would it be the majority leader's intention to interrupt whatever we are doing to take care of that matter?

Mr. MITCHELL. Yes. But, obviously, I would consult with the distinguished Republican leader and the chairmen of the relevant Senate committees before making any decision in that regard, as is my usual practice.

Mr. DOLE. I would hope that my colleagues on this side and the other side, if they are in the midst of a big debate on this issue, would have an understanding that if in fact there was an agreement to take up legislation, that they would let us do that.

Mr. MITCHELL. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am delighted the Senator from Nebraska has not left the floor, because I would like to explain my version. I have the greatest respect for the Senator. We serve on the Budget Committee. I think he knows what we want to do.

Frankly, Mr. President, I do not think the Senator from New Mexico

when he offered this proposal this afternoon was being silly. I regret that appears to the Senator that is the case. I actually believe in all honesty having read so much about this magnificent plan, I thought we ought to take a look at it. Frankly, we did.

So we put down his basic component and we thought we ought to ask the Senate of the United States today to look at it. I found myself in the position, because of the parliamentary processes here even though I have the right to offer the amendment, clearly my amendment was not going to be voted on for a long time, if ever.

I would like the Senator to know that is the case. I did not plan it this way. The rights are to fill the other tree. The trees are going to be filled and I was going to be left waiting.

I offered it in good faith. I am going to talk about it in good faith. I think there are things we ought to discuss. I intend to do that expeditiously and, in the meantime, the time was used to rearrange the debate that would have occurred on the balanced constitutional amendment so that everybody would not have to do those procedural things but they would be agreeing to them in advance. That is what took the additional time.

To the extent that is a burden on the Senator from Nebraska, I apologize. But, frankly, by the time I am finished with my 20 minutes this evening, I hope the Senate will at least concur that the Senator from New Mexico was serious and felt that while we were debating a constitutional amendment to balance the budget of the United States that an approach by a serious candidate claiming to be an economic revival plan that will get us the balanced budget, someday, that idea served an opportunity to present it.

That is all I am going to do, and I am only going to take 20 minutes and 10 minutes in rebuttal of theirs. That is the extent of time I will use.

I thank the Senator for listening.

Mr. MITCHELL. Mr. President, I yield to the Senator from Tennessee.

Mr. SASSER. I thank the Senator for yielding.

Frankly, I agree with what my distinguished friend from Nebraska has said here on the floor this evening. Here we are wasting time in the Senate this evening discussing in a partisan way the economic plan advanced by Governor Clinton, and tit for tat, we on our side will then discuss the economic program or lack of economic program of the President's budget.

All this comes on top of an exercise advanced by some on the other side of the aisle calling for a constitutional amendment to balance the budget that everyone knows is dead as a doornail for this year. So we are simply engaging in the same type of empty rhetoric, the same type of transparent partisanship that has so turned the American people off with both parties.

As a matter of fact, someone said in jest earlier this evening we ought to be debating Mr. Perot's economic plan. Of course, we do not know that it is. He has not offered it. I do not anticipate that he will offer one.

But it would make just as much sense, I think, to be debating his economic program or lack thereof than the ritual we will be going through this evening and beginning tomorrow, going on day after day after day, on this whole question of balancing the Federal budget by constitutional amendment, something that will not become a reality this year, something we all know, something the principal sponsor, Senator SIMON, acknowledged when the balanced budget initiative was defeated on the House floor.

But we will continue on down this track and just see what develops. What will develop is, as my friend from Nebraska has pointed out, a continued erosion of confidence in the leadership of the country, because we are not seriously addressing the issues that are important to the American people.

Mr. MITCHELL. Mr. President, I thank my colleagues.

Mr. President, has the agreement been approved?

The PRESIDING OFFICER. The agreement has been approved.

Mr. SEYMOUR addressed the Chair.

Mr. MITCHELL. Mr. President, I will now announce that there will be no further votes this evening.

Mr. President, I would like to get the agreement—obviously, we are in the debate, so I would like to get the agreement going so that the time that is used now will come off the time that is in the debate.

Mr. SEYMOUR. It is my understanding that section 515 of the bill prohibits the Director from disclosing to the public information provided by the enterprises that the Director determines to be proprietary. What types of information does this legislation contemplate would be treated as proprietary?

Mr. GARN. As a general matter, courts have construed various types of business information to be proprietary if it might cause competitive or financial harm to the company.

While the legislation contemplates that the Director will determine what information is proprietary consistent with current legal precedents applicable to other companies, section 515 is intended to protect especially information relating to pricing and fees. If one of the enterprises learned of the other's pricing and fee strategy, it would create an extraordinary competitive disadvantage.

Maintaining competition between Fannie Mae and Freddie Mac is essential because there are only two GSE's involved in mortgage finance. Congress created two GSE's expressly for the purpose of ensuring competition. This

competition has resulted in lowering prices and enhancing efficiency to the housing finance market, which ultimately benefits homeowners and renters.

Mr. SEYMOUR. So, if I understand the Senator correctly, section 515 should ensure that information on pricing, fees and other key aspects of business strategy will be considered proprietary and therefore protected from disclosure to the public.

Mr. GARN. That is correct. By including this provision in the legislation, it was intended that the Director protect from public disclosure a broad range of information that might impair competition between these two GSE's.

Mr. D'AMATO. Under section 102 of the legislation, it is the primary duty of the Director to ensure that the enterprises are adequately capitalized and operating safely. Section 103 authorizes the Director to issue regulations concerning the financial health and security of the enterprises. What authority is provided to the Director under this legislation to enable the Director to carry out his responsibilities under these two provisions?

Mr. GARN. Titles II and III of this bill provide a comprehensive regulatory framework to ensure that the enterprises are adequately capitalized and operating safely. Title II sets forth specific capital standards designed to ensure that the enterprises are adequately capitalized. Specifically, section 202 sets forth the minimum capital level for each enterprise, which is fixed in the legislation. Section 201 requires the Director to establish, by regulation, risk-based capital standards in accordance with various assumptions and parameters relating to interest rate and credit risk. Under the legislation, enterprises that meet both the minimum and risk-based capital standards are adequately capitalized. In addition, title II provides the Director with a range of discretionary supervisory actions that can be taken to remedy a decline in capital below the levels set in the legislation.

Title III of the bill provides the Director with a complete set of enforcement powers necessary to ensure that the enterprises are operating safely. Title III authorizes the Director to take various enforcement actions, including the issuance of cease and desist orders and the imposition of civil money penalties.

The legislation contemplates that the express capital requirements and supervisory tools provided to the Director will be sufficient to ensure that the enterprises are adequately capitalized and operating safely. Of course, we fully expect the Director to promptly notify Congress of any additional regulatory authority that may become necessary to carry out the duties of the Director under the act.

Mr. D'AMATO. If I understand the Senator correctly, section 102 requiring

the Director to ensure that the enterprises are adequately capitalized and operating safely does not provide some broad grant of authority apart from the express authorities granted under the bill. Am I therefore correct in concluding that if, for example, the Director determined that the minimum capital standards specified in the legislation were not sufficient to ensure the health and security of the enterprises, the Director would be required to recommend that the legislation be modified to change these capital standards?

Mr. GARN. That is correct. The legislation reflects the judgment of the Congress that minimum capital standards specified in the legislation along with the risk-based capital standards to be promulgated by the Director by regulation are sufficient to ensure that the enterprises are adequately capitalized. The Director is not authorized to change these standards in the absence of a change in the legislation.

Mr. D'AMATO. I noted that section 103 was amended on the floor as part of the managers' amendment to permit the Director to issue regulations concerning the financial health and security of the enterprises, including the establishment of capital standards. What was the effect of this amendment?

Mr. GARN. This was a technical amendment to the legislation intended to clarify that the Director had the exclusive authority to issue those regulations required by the act relating to the health and security of the enterprises. The amendment made clear that regulations relating to health and security included the capital standards. For example, under the minimum capital standards the Director is required to determine the amount of capital that the enterprises must maintain relating to certain off-balance-sheet obligations not otherwise expressly addressed in the minimum capital standard. Prior to the technical amendment, the legislation only mentioned the Director's authority to issue regulations under the risk-based capital standards. The amendment made clear that the Director has authority to issue required regulations with respect to the minimum capital standards as well. However, the amendment does not authorize the Director to issue any regulations to establish capital standards other than as expressly provided in the legislation.

Mr. D'AMATO. I thank the Senator from Utah for that clarification.

Mr. DOMENICI. Could the Senator from California have a minute?

The PRESIDING OFFICER. Under the previous order, amendment No. 2444 is withdrawn and the question occurs on the managers' amendment No. 2437, as previously amended.

The amendment (No. 2444) was withdrawn.

The amendment (No. 2437), as amended, was agreed to.

Mr. RIEGLE. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I thought the majority leader was going to ask for a minute for the Senator from California who was seeking recognition before we got on to this. It is not on my amendment. He wanted to speak and he was seeking recognition.

Mr. MITCHELL. Mr. President, I ask unanimous consent that, notwithstanding the previous order, the Senator from California be recognized to address the Senate for 1 minute.

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

Mr. SEYMOUR. I thank the distinguished Senator.

Mr. President, I had asked to be recognized because I wanted to object to the unanimous-consent agreement. I wanted the opportunity to respond to the distinguished Senator from Tennessee and the Senator from Nebraska relative to their comments about this debate over a balanced budget amendment and their belief that this debate is a waste of time.

I want to set the record straight, Mr. President, and remind my colleagues that this debate, pertaining to a balanced budget amendment, and the desire to vote on this measure began last Tuesday. And it began in earnest, because it was important business to the American people. And, therefore, an important matter to be taken up by the U.S. Senate.

We all know, and even I know the short time I have been here, who runs this place. It is the majority party that occupies the opposite side of the aisle. And the truth of the matter is they just do not want a vote on this measure. So if they are frustrated by the fact that the debate is alive, and considered silly by the Senator from Nebraska, then so be it. All we want is to bring it up for a vote, but we know from the unanimous-consent agreement that, in fact, we will probably not even get that vote.

So I think we ought to be consistent, and not hypocritical, and realize why this important measure will not be considered.

Mr. MITCHELL. Mr. President, I ask unanimous consent for 1 minute to respond to that.

Mr. SARBANES. Absolutely.

Mr. MITCHELL. Mr. President, time after time after time in this Senate, the Senator from California has joined other Senators in preventing the Senate from voting on legislation which a majority of the Senate favors—comprehensive crime legislation being the most recent example.

Is there any sense of fairness in the Senator from California exercising his rights under the rule to prevent votes from occurring on important issues time after time after time and then suggesting as he just has that there is something wrong with other Senators who use the same rules for the same purpose and the same effect? It is a suggestion of a double standard the Senator from California wants to use the rules when they operate to his favor, but then wants to deny to other Senators the right to the same rules when it is not to his favor. And the rules will apply to all Senators in the same way.

Just as the Senator from California has been able to join with a minority of Senators in preventing the Senate from voting on comprehensive crime legislation, which a majority of the Senate favors, which has passed the House, so also Senators can exercise the same rules on other issues. The rules apply to everyone, the same rules apply the same way to everyone.

Mr. SEYMOUR. Will the majority yield?

Mr. MITCHELL. Certainly.

Mr. SEYMOUR. With all due respect, I do not find any fault whatsoever with the application of the rules. What I was speaking to is the admonishment from the Senators from Tennessee and Nebraska that we are wasting our time. I was merely speaking that the application of the rules, with all due respect, the majority leader is in charge. He determines the rules. He sets the agenda. We can only react to that. If, in fact, we would have had this out of the way with all due respect, we would have had this out of the way last week in probably 1 day, had we been able to merely debate the constitutional amendment to balance the budget and bring it to a simple vote.

Mr. MITCHELL. Mr. President, of all the comments I have heard on the Senate floor, this does not make any sense, the statement that I, the majority leader, make the rules, takes the cake.

Mr. SARBANES. Sure does.

Mr. MITCHELL. I do not make the rules. I assure the Senator if I did make the rules, the Senate would operate in a much different fashion than it has.

And, secondly, I point out again the same rules have been used by the Senator from California to prevent a vote on the crime bill. Why will not the Senator from California join us in permitting the vote on the comprehensive crime bill that he has worked so hard to delay and to prevent the vote on?

Mr. SEYMOUR. That is because it is not the same crime bill we in fact voted on.

Mr. MITCHELL. I see. Now it is a different bill.

Mr. SEYMOUR. Indeed, it is.

Mr. MITCHELL. I yielded the minute out of courtesy, but I just wanted to set the record straight.

I would like to let Senator DOMENICI get going with his debate.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. MITCHELL. Yes.

Mr. SARBANES. Is the comprehensive crime bill to which the majority leader referred the one that contained significant financial assistance for the Nation's police forces in order to enable them to address the crime problem across the country?

Mr. MITCHELL. Yes, it is.

Mr. SARBANES. It is the very one that police departments all across America are supporting?

Mr. MITCHELL. The police departments all across America are supporting it, yes.

Mr. DOMENICI. Will the majority leader yield on that point?

Mr. MITCHELL. I yield to the Senator.

Mr. DOMENICI. Someone on that side of the aisle has made the point on this crime bill that they are providing money for law enforcement people, policemen who walk the beats of America. That is an absolute joke. Whatever billions of dollars are in there, it is authorized, not appropriated. And you do not even need a new authorization because we have not even put the money in for law enforcement that is already authorized.

The last time I raised this point, the distinguished chairman, Senator BIDEN, sat down and did not even answer me because that is true. So the good Senator from Maryland does not have to make that point tonight. They cannot say they are for law enforcement and the President is not, when they cut his law enforcement budget by \$171 million this year. They gave him less than he asked for.

Mr. MITCHELL. Mr. President, we will give the Senator from Delaware [Mr. BIDEN] a chance to respond.

Mr. DOMENICI. That is fine. I will give him some of my time.

Mr. MITCHELL. I would like to ask that this agreement now begin and let the debate commence.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair. I just want to say in jest to the majority leader that when he suggested that he did not make the rules, some of us—we did not say it very loud—but some of us were saying we are very pleased that you do not.

Mr. MITCHELL. You might inform the Senator from California.

Mr. DOMENICI. He merely meant that you interpret the rules. That is really what he meant.

AMENDMENT NO. 2446

Mr. DOMENICI. Mr. President, pursuant to the order, I send an amendment to the desk for myself, Senator DOLE, Senator SEYMOUR, and Senator NICKLES; and, while I am asking for its immediate consideration, it is understood

that we will follow the unanimous-consent agreement.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. DOLE, Mr. SEYMOUR, and Mr. NICKLES, proposes an amendment numbered 2446.

Mr. DOMENICI. 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 appropriate place insert the following:

SEC. . NATIONAL ECONOMIC STRATEGY.

(a) It is the sense of the Congress that legislation should not be enacted that would:

(1) increase taxes on the American people and on small and large businesses over 4 years by a minimum of \$150 billion;

(2) increase taxes by an additional \$10 billion on all businesses both small and large by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

(3) increase spending for various and sundry domestic programs over the next four years by over \$190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

(4) increase Federal spending by nearly \$200 billion for health care programs and impose another \$100 billion in taxes on employers to partially pay for this spending;

(5) provide for a child tax credit or a middle-income tax cut that would add another \$45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

(6) increase the Federal deficit and not achieve a balanced budget in this century;

(7) terminate only one Federal program (the honey price support program);

(8) reduce mandatory spending by less than one-half of one percent over the next four years;

(9) reduce defense obligational authority by \$90 billion more than currently planned and in addition to the \$220 billion of reductions already planned; and

(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

Mr. DOMENICI. Mr. President, I yield myself 5 minutes of my time and ask that the time clerk advise me through the Chair when I have used that.

Mr. President, I would not be here today offering this amendment on behalf of myself and the distinguished minority leader and others if Governor Clinton, the Democratic nominee for President of the United States, had not made such a big thing about having an economic game plan to rescue and save America, and if he had not indicated that the Congress of the United States, when he was President, would pass that plan in 100 days.

Now, Mr. President, I just wanted the U.S. Senate to know, since we must say one good thing about this plan, Gov-

ernor Clinton and his advisers at least put forth a plan. So let us put that up and give him a very big star as we do to our good students. He submitted a written plan. But, beyond that, any indication that this plan is going to balance the budget of the United States, that it is going to provide for economic growth and vitality, is indeed a people-oriented budget, is absolutely a sham.

Now, for starters, let me suggest it is not a coincidence, Mr. President, and fellow Senators, that this plan covers only 4 years. Guess why it is 4 years? Because if you look at the current fiscal policy of the Nation you will find that those are the very best 4 years for the deficits of the United States, believe it or not. If he did not submit any plan for recovery, this budget would come down of its own under current policy to a low in 1996 to about \$200 million. We are currently at about \$350 billion, so he can right off the bat claim that he has cut the budget. The truth of the matter is, not one penny would get cut.

Now, having said that, there is nothing in any law that says you should get a 4-year budget. In fact, the law requires 5-year budgets. And if he would have just submitted a budget covering the fifth year, he would have to show the deficit going back up in the fifth year and then up some more in the sixth year and up some more in the seventh year. So it was selective so he could make it look like he really did something, when most of the reduction was automatic, occurring because we are no longer bailing out the S&L's and because an economic recovery was occurring. Point No. 1.

Second point: Let us read from the resolution that I sent to the desk. Does anyone believe that raising taxes \$150 billion on businesses, large and small, and on the American people is going to cause this economy to grow and prosper? And it does not matter how much he says he is only going to get the top 2 percent of the taxpayers. It is now understood that those are small businessmen, sole proprietorships, subchapter S corporations, and they put all of their business profits in taxes. So you will be cutting the very people you want to add vitality to the American economy. Point No. 2.

Point No. 3: \$10 billion on business, small and large, by way of a 1.5-percent payroll tax for some kind of training and education program. That is \$160 billion in taxes. And then, lo and behold, as best as I can read it, there is \$190 billion in loosely defined new programs to "put America back to work"—\$190 billion in new programs.

Now, some of these programs are good. WIC is increased. Head Start is increased. But there is \$190 billion new spending in 4 years. In the first year, it exceeds \$50 billion in new expenditures that will be added to the deficit.

Fourth, I looked at it as diligently as I could with reference to health care

reform. If I read it right, the health care reform program is one of those that is saying pay or play. If I understand it correctly, without any details, that is a \$200 billion health care program and it would impose \$100 billion in new taxes, and nothing in this budget as to where you would pick up the difference.

Fifth, a child tax credit or middle-income tax credit. It is diminished some over the previous declaration, but that is \$45 billion in reduced taxes—

Mr. President, I ask unanimous consent for an additional 2 minutes.

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

Mr. DOMENICI. Forty-five billion dollars and nobody pays for it. No pay-as-you-go. Just \$45 billion in tax cuts.

Actually, the Federal budget deficit is increased over 5 years and there is nothing in it that even gets you close to a balanced budget into the next century.

Then we find the real, real tough stuff in this budget. The only program I can find that is terminated is the good old honey price support program. He found that. It is terminated. It is the only one I find.

He reduces the mandatory expenditures, the non-Social Security entitlement programs, just get this, Mr. President, only one-half of 1 percent, \$4.4 billion over 4 years, out of the entitlements and mandatory programs and he is going to fix our budget deficit problem. Absolutely incredible.

That alone sends this budget deficit plan, this economic recovery plan, into the ash heap of dead on arrival. Since every time one of the President's came up, it was dead on arrival, I thought that I would let everybody in this institution vote on whether this was dead on arrival even before it was ever presented. And I believe, if we would have a vote, it would be dead on arrival, because I do not believe the Democratic Senators would vote for this plan as the economic recovery plan of this Nation. All it really reduces is defense, and \$90 billion out of defense.

Then I might close these opening remarks by saying there is a big asterisk. Senators will remember the asterisk of 1981. This one has one for unspecified administrative cuts, work force reduction, line-item veto of pork barrel projects—that is \$10 billion—Federal agency energy conservation, freeze consultants, university projects, a big asterisk, takes care of the savings.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. DOMENICI. Mr. President, I yield myself 1 additional minute.

Now, Mr. President, I truly intended not to make this a game. We have already voted on the President's budget. We have a new budget that the Congress put in place. But if they would like to talk about it, they are welcome.

The truth of the matter is this would have been an opportunity to have a

real debate about an economic game plan that will not work, that truly is as deceptive as it could be. Yet, it is being pronounced and announced as the great economic savior plan.

How much time do I have on my first 10 minutes?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. DOMENICI. Was that 2½ or 3½?

The PRESIDING OFFICER. The Senator has 2½ minutes.

Mr. DOMENICI. I yield the 2½ minutes to the Senator from California.

Mr. SEYMOUR. Mr. President, I commend the distinguished Senator from New Mexico for taking the mask off the largest tax increase that the American taxpayers will have seen in this century. What we have here is a proposal to raise \$150 billion in taxes, spend \$75 billion of that—that is half of it—and then claim savings for the remaining half. When will we ever learn that by raising taxes, you cannot create jobs?

We are going to be debating soon a constitutional amendment to balance the budget. What does this plan do to balance the budget? It does not even try. It does not even pretend to suggest we are going to have a balanced budget. As a matter of fact, after 4 years of "want to be elected President Clinton," what we will have is a deficit of somewhere between \$75 and \$141 billion.

So one more time we have a Democratic tax-and-spend proposal. Business really has not changed. They really have not gotten the message.

Mr. President, I yield the remainder of my time.

Mr. DOMENICI. I yield the remainder of my time to Senator DOLE.

The PRESIDING OFFICER (Mr. BRYAN). The Republican leader.

Mr. DOLE. I will wait for the next time. But it is my understanding the majority leader would have no objection if, at this moment, Senator SEYMOUR sends up the Nickles amendments, and then Senator BYRD is recognized.

The PRESIDING OFFICER. Without objection, the Senator from California is recognized.

AMENDMENT NO. 2447

(Purpose: To propose an amendment to the Constitution of the United States to require that the budget of the United States be in balance unless three-fifths of the whole of each House of Congress shall provide by law for a specific excess of outlays over receipts and to require that any bill to increase revenues must be approved by a majority of the whole number of each House.)

Mr. SEYMOUR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. SEYMOUR], for Mr. NICKLES, for himself and Mr. SEYMOUR, proposes an amendment numbered 2447.

Mr. SEYMOUR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. BYRD. Mr. President, I object. It is a very short amendment. Let him read it.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principle.

"SECTION 8. This article shall take effect beginning with fiscal year 1998 or with the second fiscal year beginning after its ratification, whichever is later."

Several Senators addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. SEYMOUR. Mr. President, will the distinguished Senator from West Virginia yield to add a cosponsor?

Mr. BYRD. Yes; I will yield.

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

Mr. SEYMOUR. Mr. President, I ask unanimous consent—

Mr. BYRD. No, I am recognized. I yield to him.

Mr. SEYMOUR. I thank the Senator for yielding.

Mr. President, I ask unanimous consent to add Senator PHIL GRAMM from Texas as an original cosponsor.

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

The Senator from West Virginia.

AMENDMENT NO. 2448 TO AMENDMENT NO. 2447

(Purpose: To require the President to submit by September 2, 1992, a 5-year plan to balance the budget not later than September 30, 1998)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2448 to amendment No. 2447.

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

The Senate finds that—

(1) the President's 1993 budget estimates that the deficit for fiscal year 1992 will be \$449,125,000,000;

(2) the national debt as of June 18, 1992 was \$3,835,251,000,000;

(3) it is estimated in the President's budget supplement for fiscal year 1993 that the national debt subject to the statutory limit will be—

(A) \$4,513,229,000,000 for fiscal year 1993;

(B) \$4,856,863,000,000 for fiscal year 1994;

(C) \$5,201,542,000,000 for fiscal year 1995;

(D) \$5,549,928,000,000 for fiscal year 1996; and

(E) \$5,917,713,000,000 for fiscal year 1997;

(4) no President since 1980 has submitted a balanced budget for the budget year to Congress; and

(5) the President and the Congress must agree upon a plan to balance the budget in order to decrease the debt burden on current and future generations and provide a long-term sound economic structure for future generations.

SEC. 2. BALANCED BUDGET PLAN.

(a) PRESIDENT'S PLAN.—The President shall submit not later than September 2, 1992, a 5-year deficit reduction plan, using the economic and technical assumptions contained in the President's 1993 budget, to balance the budget by September 30, 1998.

(b) ELEMENTS OF PLAN.—The plan shall consist of—

(1) reductions in discretionary spending including domestic, defense, and international spending;

(2) reductions in, and controls on, entitlement and other mandatory spending; and

(3) increases in revenues.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, does the order provide for the Senator from West Virginia to amend his own amendment without asking for the yeas and nays on the amendment first?

The PRESIDING OFFICER. The Senator is correct. That is in effect by unanimous consent.

AMENDMENT NO. 2449 TO AMENDMENT 2448

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 2449 to Amendment No. 2448.

Mr. BYRD. Mr. President, it is a rather lengthy amendment. I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Under the regular order, the Senator from New Mexico has 1 minute left of the original 10 minutes allocated to him. The Senator from Tennessee [Mr. SASSER] has the following 10 minutes; the 10 minutes thereafter, constituting 30 minutes, allocated and returned to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if Senator SASSER would object if I use 2 minutes off of my final 10 minutes and give that to Senator DOLE along with the minute I have.

Mr. SASSER. I have no objection.

The PRESIDING OFFICER. Without objection, the order will be modified as requested.

Mr. DOMENICI. The Senator gets 3 minutes and I have 8 in rebuttal.

The PRESIDING OFFICER. That is correct.

Mr. DOLE. Mr. President, there is no question about it, there is a recognition now that growth is the key to lower budget deficits and a healthy American economy. I certainly share the views expressed by the distinguished Senator from New Mexico [Mr. DOMENICI] that economic growth can help us reduce the deficit, but I think, as we get into this debate, that the old, worn-out tax-and-spend policies are not going to increase economic growth.

Some may call this putting people first, but the American people know this plan puts taxes first and economic growth last. One thing we do not need—and I notice it was repeated in the amendment just sent to the desk—is increased revenues. I do not know people demanding higher taxes, higher payroll taxes or higher corporate taxes. Enough is enough. The American people are demanding paychecks, not higher taxes. They know as well as any of us, increasing taxes results in more spending and bigger deficits. Some folks will tell you they are gong after the rich, the super rich, the fat cats on Wall Street, but we went through that debate when we passed the luxury tax, which we are now trying to repeal. You end up hitting the guy on Main Street: workers, employers, small business men, and small business women.

Almost any economist will tell you that our country's deficit is one of the biggest drags on our economy. In fact, those same economists would tell you that nothing would spark economic growth like a balanced budget. But, slashing the deficit is going to take

discipline, hard decisions, tough votes and not empty promises. We need the discipline to bite the bullet on new spending, the discipline to take a good, hard look at entitlement programs, and, most importantly, the discipline to resist hitting up the American public for yet another tax increase.

It seems to me that Congress is going to have to bear some responsibility. We cannot make vague promises about health care costs—as made in the so-called Clinton plan—without at least identifying some costs. You cannot support expensive white elephant defense projects while promising to cut pork barrel spending. You cannot put people back to work by slapping more mandates on business men and women across America.

So it seems to me there is only so long you can continue saying, "Bill me later," especially when the bills are going to go to someone else: Our children, our grandchildren, and future generations.

I think the Senator from New Mexico has shown that the Clinton plan, is full of holes. It is going to cost a lot of money. There is not much reduction in spending, but big increases in taxes.

I think this is a worthwhile debate. The Members of the Senate should know in advance there is going to be a lot of debate about this. In fact, this is only a kickoff of what I hope is a debate, not only on the Clinton plan, but the Perot plan, the Bush plan, and all the plans, so that the American people will have a better understanding of what may lie ahead in the decade.

The PRESIDING OFFICER. The Chair informs the Republican leader that the 3 minutes allocated has expired.

Under the previous order, the Senator from Tennessee is recognized for 10 minutes.

Mr. SASSER. I thank the Chair, and I ask the distinguished occupant of the chair to advise me when I have utilized 5 minutes.

Mr. President, it has not escaped the attention of this Senator that this afternoon, at the Office of Management and Budget, the Director of that office summoned the press into his presence and began the same type of criticism of the Clinton economic program that we are hearing on the floor this evening.

It is my view that this is a coordinated political effort to discredit the only economic package that has been offered by the three candidates running for President. At least my good friend from New Mexico does give Governor Clinton credit for having offered a package. That is more than we can say for the President of the United States at this juncture and certainly more than we can say for the other candidate. But I think we clearly see what the strategy will be in this campaign, and that is what this exercise on the floor of the U.S. Senate is all about this evening.

I had occasion to watch a television program a Sunday or two ago that is hosted by one of the most eminent Washington correspondents, Mr. Bob Schieffer, of CBS News, and he is now hosting a program called *Face the Nation*, and, I might say, he does an outstanding job with it.

On this particular morning, Mr. Schieffer had on that program the Chairman of the Republican National Committee, Mr. Rich Bond. And, also, he had on that program Mr. Charles Black, a Republican political consultant, who is a leading person in President Bush's reelection campaign.

I was struck by the fact that for almost 30 minutes, all you heard out of either of these two individuals were critical, destructive statements leveled against both Governor Clinton and the other candidate, Mr. Ross Perot. At no time did we hear on that program any offering of a positive platform or positive program for the country that was to be offered by the President of the United States.

So I think what we are seeing here is the opening gun, perhaps, on the floor of the U.S. Senate in a campaign which will be characterized principally by criticism, by negative comment, and with little or no positive proposals on the part of the present occupant of the White House.

Once again, we are back with the old song: "They want to raise your taxes." That seems to be the battle cry of every campaign, and we might even in this one get into the question once again of "read my lips." I think we all remember that one: "Read my lips." Maybe we will recycle that one for the campaign of 1992 from the campaign of 1988 on the part of the present occupant of the White House.

What kind of taxes or revenues are being proposed by Governor Clinton? One, he proposes to increase taxes on millionaires, the so-called millionaires tax that passed this body and passed the House of Representatives and was vetoed by the President of the United States.

Let me show you, if I may, Mr. President, and share with my colleagues, the tax policy of the Reagan-Bush years and why there needs to be some redressment of the tax inequities that were built into their tax policy. I am indebted to my distinguished friend from Maryland, the chairman of the Joint Economic Committee, for sharing this particular chart with me. You will note that from 1980 to 1989, during the Reagan-Bush years, that pretax income for upper income groups rose from \$300,000 to \$560,000. But look at the Federal, total Federal taxes that same group was paying during that period of time. The amount of taxes they paid remained constant while their income was going up dramatically. Their pretax income went up 78 percent. Their Federal taxes were up 34 percent. Their after tax income up 102 percent.

Mr. SARBANES. Will the Senator yield on that point?

Mr. SASSER. I will be pleased to yield to my friend on that point.

Mr. SARBANES. Mr. President, there is a very important point that needs to be made here because the other side of the aisle is constantly asserting that the rich are paying more taxes, the very wealthy. This is the top 1 percent in income.

Mr. President, I want to say right at the outset that that is correct. As this chart shows, for the top 1 percent, their total Federal taxes rose from \$112,000 to \$150,000 between 1977 and 1989. But, Mr. President, their income rose by a much greater degree. In other words, they are paying somewhat more taxes but they have gotten much, much, much more income.

Now, the logical extreme of this is if one person had all the income and paid all the taxes—and that is the direction in which we are moving in this country—their income rose from \$315,000 to \$560,000, an increase of \$245,000, their taxes rose by \$38,000, and the balance was an increase in after-tax income.

So people say, oh, well, the very wealthy are paying more in taxes. Yes, they are. But the reason they are doing it is because they are getting so much more in income, and in fact their income growth at 78 percent is more than double their tax growth. So their after-tax income has doubled, and that is what has taken place over the decade of the 1980's.

Mr. SASSER. I thank the Senator from Maryland for his comments.

Just let me share this chart with my distinguished friend from Maryland and other colleagues.

In 1981, the Reagan-Bush administration proposed a massive tax cut to trigger the so-called supply side theory, or supply side economic program.

Look at what has happened in the years since then. Between 1982 and 1989, the total revenue loss was \$1.4 trillion. Between 1982 and 1991, \$2 trillion in revenues had been lost as a result of that tax cut.

Mr. President, when you lay that tax cut down side by side with the massive increases in defense spending during the same period, then you see why the Federal debt has tripled under the stewardship, or lack of stewardship of Mr. Reagan and Mr. Bush over the past 12 years.

Mr. SARBANES. Will the Senator yield.

Mr. SASSER. I am pleased to yield to my friend from Maryland.

Mr. SARBANES. Mr. President, first of all, I want to make the point that Governor Clinton's proposal called for very significant curtailment of spending. The tax proposals he called for were an increase of taxes on the very wealthy, the top 2 percent, and the closing of certain corporate tax loopholes, including corporate deductions

limiting them at \$1 million for chief executive officers, ending the incentives for opening plants overseas—

The PRESIDING OFFICER. The Chair will inform the Senator from Maryland—

Mr. SARBANES. And tax avoidance by foreign corporations.

The PRESIDING OFFICER. The time has expired.

Mr. SARBANES. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico is recognized for 8 minutes.

Mr. DOMENICI. Mr. President, I yield myself 4 minutes.

Mr. President, first I want to talk just for a minute on the President's budget. They indicate that it has not been submitted. Actually, if you look at the President's next 4 years, I just want to remind the Senate that the President in this document reduces the actual spending of the Federal Government, the deficit reduction, including his mandatory cap and other items, \$16, \$44, \$77, \$106 billion, for a total of \$243 billion in deficit reductions. And that is already provided for in detail.

I would submit that the Governor of Arkansas submitted his plan. It is about yea thick. I repeat, it had one program cut, and that was the honey bee subsidy program.

We will talk about the President's budget later, but I want to talk about the Clinton proposal.

Let me go through it again. First, everyone should understand that if we did nothing, the Federal deficit that he is operating off of would come down dramatically from where it is to \$200 billion in the fourth year of the next President. So if you did nothing to reducing the deficit, the point of it is, it starts up again dramatically and reaches \$500 and \$600 billion a few years thereafter. So we picked the 4 best years.

Second, no matter how you coat it, \$150 billion in new taxes. No matter how you color it, there is an increase in domestic spending of \$190 billion. No matter how you cut it, the big reductions are in defense spending, \$90 billion more than the \$220 billion proposed by the President—more than anyone, except two Democratic Senators, has dared recommend with reference to cutting defense.

Overall, you add another \$1 trillion to the deficit. And in the process there is some claim that magically you are entitled to the good old rosy economic scenario.

So in addition to having a big asterisk, and I just described that one, with a whole bunch of cuts that you just cannot understand, the rosy scenario is added. Somehow or another, when you elect this man President, the economy is going to start to grow and you get five-tenths of a percent more growth than the CBO or OMB. And obviously,

if you are fortunate enough to get that and get it right off the bat, you will reduce the deficit substantially without cutting anything.

So when you add it all up, I came to the floor today intending to provide the Senate and, to the extent possible, the American people and, to the extent possible, Governor Clinton and his advisers an opportunity to tell it like it is. This is no budget reduction or budget deficit plan. It is a plan to spend more money and, albeit for good causes, to raise taxes, to create some incentives that are supposed to cause everything to work and to reduce defense dramatically and when you are finished with that you somehow or another have this people-oriented budget.

Now, I want to close with one last rebuttal on the charts which we have seen so many times. Let me suggest, who would not take today the American economy of 1983, or 1984, or 1985, or 1986, or 1987. The truth is you can put up all those charts you want about the Reagan years, what happened to taxes. We did not redistribute the wealth. We did not set about like they always do, saying let us take from the rich and give it to somebody else. We cut taxes across the board and, believe it or not, 20 million new jobs, a \$1.6 trillion increase in the gross national product. We grew by the size of West Germany. Frankly, I think the Americans would welcome that kind of era back any day, any time.

This Clinton budget will not come close to producing the kind of prosperity that existed in that time. Little by little, in the ensuing months, we will talk about all the other negative claims of that era, most of which are untrue, and for the most part, the economics of that era were positive for the American people. We will have a chance to talk about that later.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. DOMENICI. I wonder if they might let me add to my 10 minutes at the end because I am missing a Senator who wants to speak. If you do not care to, I will use my time up now. I wanted to add 3 minutes to the 10 minutes of rebuttal. It will give you 3 if you would like it.

Mr. SASSER. Does the Senator want to add 3 minutes to the end?

Mr. DOMENICI. I would like to tack it onto the next 10 minutes that I have. So the next 10 minutes would be 13, so I could yield part of it to another Senator.

Mr. SASSER. That is satisfactory.

Mr. DOMENICI. I yield back the time now.

Mr. SARBANES. And take 3 minutes additional in the next debate?

Mr. DOMENICI. I do not have any objection. The other side is getting 3 minutes more than we are, but that is all right.

The PRESIDING OFFICER. Without objection, it is the Chair's understanding that the Senator from New Mexico reserved 3 additional minutes for the next series of debates related to the amendment to be offered, and that the Senator from Tennessee [Mr. SASSER] will have an additional 3 minutes time heretofore allocated to him.

Mr. DOMENICI. Mr. President, the Senator has arrived. I withdraw my request, and yield 3 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, some might think it is a tall order to describe Bill Clinton's economic program in 3 minutes but it is an easy task.

Bill Clinton committed to the Nation's mayors \$220 billion worth of new spending over the next 5 years. If you take that commitment and add it to the built-in growth in the Federal budget that he would face if he becomes President, there are two things you can say about his program.

First, under the commitments he has made, the first year of a Clinton Presidency will witness the largest dollar increase in Federal spending in American history.

Second, the program he outlined to raise taxes would not only be the largest tax increase in the history of the Nation, but 67 percent of that tax increase would fall not on John Vanderbilt Du Pont, but it would fall on Joe Brown and Son, hardware store. I repeat, 67 percent of his proposed tax increases would fall not on rich people, but on small independent businesses and family farms, many of whom use subchapter S of the IRS Code to allow them to file taxes as an individual.

So you can sum it all up very simply as this: We are used to tax-and-spend Democrats, but Clinton has broken the mold. He promises to spend more in a shorter period of time than any President in America history has ever spent, and he promises to tax more in a shorter period of time than any President in American history has ever promised.

So if we want more taxes and more spending at a level unprecedented in the history of the country, Bill Clinton has told us that he is the one for the job.

I do not want the largest increase in Federal spending in American history in 1993. I do not want the largest tax increase in American history in 1993. I especially do not want tax increases that fall on small independent businesses and family farmers—67 cents out of every dollar Bill Clinton would take would be from small independent businesses and family farmers.

I am against those things. I think the American people are against them. This is an interesting program, not terribly well developed. But I think when people understand it, Bill Clinton is not going to be elected President of the United States.

I reserve the remainder of my time.

The PRESIDING OFFICER. The time allocated to the Senator from New Mexico has expired, and the Senator is recognized for the purpose of withdrawing his amendment.

Mr. DOMENICI. I withdraw the amendment as previously agreed to.

The amendment (No. 2446) was withdrawn.

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee is recognized for the purpose of offering an amendment, and the Chair understands the time constraints previously agreed to. The Senator from Tennessee is recognized for 10 minutes, and the Senator from New Mexico is recognized, and the Senator from Tennessee is recognized for rebuttal.

AMENDMENT NO. 2450

Mr. SASSER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee, [Mr. SASSER] proposes an amendment numbered 2450.

At the appropriate place insert the following:

"SEC. . PRESIDENT'S BUDGET.

"(a) It is the sense of the Congress that the Bush budget should not be enacted as it:

"(1) fails to invest in human or physical infrastructure which is critical to increased productivity and economic growth;

"(2) offers no plan to deal with health care costs or access;

"(3) allows the national debt to increase to \$5.918 trillion by 1997;

"(4) leaves a budget deficit of \$303.6 billion by 1997;

"(5) proposes a revenue hemorrhaging capital gains tax cut for the same wealthy Americans who benefited from the misguided policies of the 1980's;

"(6) reduces defense spending by only \$26 billion from 1992 through 1997 and spends a total of \$1.4 trillion over the next five years, despite the collapse of the Soviet Union;

"(7) offers no plan for converting our defense industry and personnel to a civilian economy;

"(8) cuts medical care to the elderly and raises the hospital insurance tax, for a total of \$22 billion in savings; and

"(9) relies on a dubious accounting gimmick to claim \$38 billion in false savings."

Mr. SASSER. Mr. President, it is stated in our sense-of-the-Senate resolution—I ask the distinguished Presiding Officer to advise me when I have 5 minutes remaining—that the budget offered this year by President Bush frankly proposes virtually nothing to get this economy moving again.

As a direct result it leaves the on-budget deficit at some \$300 billion even by fiscal year 1997.

My friend from New Mexico was talking a moment ago about the great performance of the 1980's, the Reagan years. I would be willing to go back to the Reagan years. Anything is better than the economic stagnation that this Nation has experienced over the last 3½ years under the economic programs and domestic programs of the Bush administration.

Let me give my colleagues an example of what I am talking about. This administration, the Bush administration, has had the worst economic record of any administration since the Second World War; indeed, the worst economic record of any administration since that of Herbert Hoover.

Let us just look at the economic growth records of Presidents beginning with Harry Truman, following the Second World War. Let us look at the average annual real per capita GNP growth, or growth in the gross national product divided by the number of people. That growth in GNP divided by the population is what gives you an idea of the increase in the standard of living of our people.

The highest growth period occurred during the administration of Lyndon Johnson, 3.4 percent; next was President John Fitzgerald Kennedy, 3.3 percent; next was Harry Truman, 2 percent; Ronald Reagan came in at 1.8 percent; Jimmy Carter and Richard Nixon both at 1.6 percent; Gerald Ford at less than 1 percent, seven-tenths of 1 percent; President Eisenhower's 8 years came in with very slight economic growth, two-tenths of 1 percent; and look at George Herbert Bush. There is an actual decline in real GNP growth during the 4 years of his administration of three-tenths of 1 percent. That is the first time that has happened in any administration since that of Herbert Hoover.

So no wonder this President's favorable rating in the polls is sagging and going through the floor, the lowest of any incumbent President in recent memory.

We have also seen an explosion in the Federal deficit during the years that President Bush and his administration have been in office. We see no hope in the future on the horizon under the proposals, budgetary proposals, being offered, and the economic proposals, or lack thereof, of this administration. We see no hope in the future that this terrible, lackluster economic record is going to be reversed.

Mr. President, there are a number of Senators on the floor, and I do not wish to take up an undue amount of time.

I see my friend from Maryland here and also the distinguished Senator from Iowa. I would be pleased to yield to the distinguished Senator from Maryland 3 minutes at this time.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 3 minutes.

Mr. SARBANES. Mr. President, I thank you very much, and I thank the chairman of the Budget Committee.

This is a very important chart, because it shows that under President Bush is the only time in the entire post-World War II period that an average annual real per capita GNP growth has been negative. That has not happened with any other President, from

Truman through Reagan. But it has been negative under Bush. It really underscores the point about the President's sensitivity and understanding of the economy.

On June 4 of this year, the President held a nationally televised press conference in the evening. In the course of that press conference, he said, "I think about the economy." He was responding to questions that 70 percent of the American people thought the economy was getting worse. The President said, "I think it is getting better. I think the economy is improving." This was on Thursday evening.

On Friday morning, the next morning, the Bureau of Labor Statistics reported the monthly unemployment figure, and it went to 7½ percent, the monthly unemployment figure. The night before, the President is saying: well, 70 percent of the American people think the economy is getting worse, but I know it is getting better.

The next morning we get a figure, and it has jumped to 7½ percent. That is the highest monthly unemployment figure in this recession—the highest.

This recession started in June 1990, 2 years ago. The unemployment figure was 5.3 percent, and it has risen over this period of time and is now up at 7.5 percent. The long-term unemployed, people unemployed 27 weeks or longer, has risen from 600,000 people to almost 2 million.

Yet, the President is now threatening to veto an extension of the unemployment insurance bill. He is threatening a veto. He vetoed it last fall. This is what is happening to long-term unemployed, people out of work for 27 weeks or longer. It has risen now to almost 2 million people. Yet, the President holds this press conference the day before, the evening before these figures are announced, and tells the American people that the economy is getting better.

Whatever criticism you may make about Governor Clinton's economic program, the fact is that he is concerned about this unemployment problem, and he wants to put the American people to work, and jobs are at the center of this proposal.

We have all this screaming and moaning on the other side and, of course, they want to portray it in a certain way and paint it in a certain light. They are screaming about the taxes on the top 2 percent of the population. Do not let corporations take deductions for paying more than a million dollars in salary to the chief executive officer.

And the incentives in the Tax Code for opening plants overseas prevent tax avoidance by foreign corporations. What is the basis of protecting that sort of thing? Tax avoidance by foreign corporations; incentives to open plants overseas; take deductions for paying over \$1 million to the CEO's; protect

the top 2 percent of the income population, who have gotten such a disproportionate benefit through the 1980's.

Of course, there has been a redistribution of wealth. There has been a redistribution of wealth to the very top of the income scale. And the middle-income and working people are the ones who have paid the price.

But the biggest price they are paying is a President who tells us the economy is getting better, when the unemployment rate has now gone to the highest level in the course of this recession, at 7½ percent; when the long-term unemployed has risen from 600,000 to almost 2 million people.

The PRESIDING OFFICER. The Chair informs the Senator that the time allocated has expired.

Under the previous order, the Senator from New Mexico is recognized for a period of 10 minutes.

Mr. DOMENICI. I yield 4 minutes to the Senator from Texas.

Mr. GRAMM. I want to make two points, Mr. President.

First of all, our dear colleagues on the left, who are criticizing the President and praising Governor Clinton, are really praising a proposal by Governor Clinton to put Americans to work by increasing Government spending by \$220 billion and by raising taxes, so that the Government can become a more dominant force in the American economy.

Our colleagues on the left here must feel very much alone tonight, because only in Havana, Cuba, and North Korea do we have any other organized political discussion on the face of the Earth where people still get up and argue that government is the answer to every problem. Eastern Europe, the Russian Republics, Albania, Central America have all rejected the Clinton policy and yet, our colleagues here on the Democratic side of the aisle still believe that if Government will just tax more and spend more, we will reach economic health.

The second point I want to make is, what is this nonprogram that the President supposedly has that has failed?

Well, let me just read some of the things that the President has proposed to try to put Americans back to work, which our colleagues here on the Democratic side of the aisle have prevented from becoming the law of the land.

The President has proposed cutting the capital gains tax rate to encourage people to invest in creating new jobs in America. Never in the 20th century have we cut the capital gains tax rate and not put more Americans to work. The President proposed a 15-percent credit for new investment. Congress refused to adopt it.

The President has proposed a permanent 20-percent tax credit for research

and experimentation. The Congress has refused to adopt it.

The President proposed lowering the alternative minimum tax, extending the targeted job tax credit, adopting enterprise zones to use the same free enterprise system they are trying to use to rebuild Eastern Europe in our own cities. Our colleagues are willing to allow free enterprise to work in Eastern Europe. They simply reject it for the cities in the United States.

The President proposed to give the peace dividend back to working families by raising the child care deduction by \$500. Our colleagues want the Government to spend it believing that the Government can do a better job of investing in the future of the American families. The President proposed penalty-free withdrawals from IRA's, for medical care, for home purchase, for educational needs. Congress has rejected those proposals.

The President has proposed that we restore the doubling of the adoption deduction to encourage people to adopt children. The President has proposed numerous changes related to health care. In fact, we have tried many times to deal with the exploding liability problem that faces American business, all of our schools, and all of our health care, but a filibuster on the Democratic side of the aisle has prevented us from dealing with this problem.

So Mr. President—

Mr. CONRAD. Mr. President, will the Senator yield for a question?

Mr. GRAMM. I do not yield, because I only have 4 minutes.

Mr. President, President Bush has an economic program, but the Congress has refused to debate it and to adopt it. In those areas where the President has had unilateral power under the Constitution in foreign policy and defense policy, areas where he also has not had the support of the Democrats in Congress, he has been able to produce miracles. But without support for his domestic policies, Congress has stopped similar results at home.

The PRESIDING OFFICER. The time allotted to the Senator has expired.

The Senator from California is recognized for 2 minutes.

Mr. SEYMOUR. Thank you, Mr. President. I extend my thanks to the distinguished Senator from New Mexico.

Mr. President, there is one thing that I will agree on with my colleagues on the other side of the aisle, that this economy is the pits, unemployment is too high, and we must do something about it. That is why we are here tonight, to debate what measures are best for this country. What I have been proposing is to cut taxes. I think that is one way to create jobs. Whether it is a reduction in the capital gains tax, whether it is a first-time home buyers tax credit of \$5,000, whether it is a use of the investment tax credit, we want to cut taxes.

I think that by leaving dollars in the taxpayers' pockets, the private sector is better able to create jobs and spur economic growth than the Federal Government.

My friends on the opposite side of the aisle believe the opposite. They believe the way to encourage economic growth and jobs is by taking more money out of people's pockets and recycling those dollars back out through failed Government programs.

So the choice is simple. Either we can talk on one hand about want-to-be-President Bill Clinton's proposal which consists of raising taxes \$150 billion, continued deficits even after his first 4-year term and continuation of pouring money into wasteful Government programs. Or, we can take the alternative approach of cutting taxes, and leaving those tax dollars in the hands of the citizens of this country, the entrepreneurs of this country, who I believe are better equipped and know better how to create jobs.

The PRESIDING OFFICER. The Senator has used the 2 minutes allocated to him.

The Senator from New Mexico is recognized for the balance of his time.

Mr. DOMENICI. Mr. President, might I first answer some remarks made by my friend from Maryland. He put up a chart that shows that unemployment went up while the President, the day before, was talking about the economy improving.

The Senator from Maryland is a very distinguished Senator in terms of economic matters and he knows full well that every economist in the United States will verify that during that period of time, that quarter that the President was talking about, the American economy grew. As a matter of fact, that very quarter the American economy grew at over 2 percent, approaching 2½ percent, and that is what the President was talking about. To stand up there and say that he was intentionally deceiving the public when he was telling the truth, and the unemployment increase that occurred, all economists will say occurred while the American economy was growing and improving.

Mr. SARBANES. Will the Senator yield?

Mr. DOMENICI. I do not have enough time.

Mr. SARBANES. Since he used my name.

Mr. DOMENICI. I do not have time. I only have 4 minutes.

Mr. SARBANES. If the Senator is going to make outrageous—

Mr. DOMENICI. I did not.

Mr. SARBANES. He ought to give me an opportunity to respond.

The PRESIDING OFFICER. The Senator retains the floor.

Mr. DOMENICI. When I finish here I will yield. They have 10 minutes to answer. I am sure they will yield to the Senator from Maryland.

Mr. President, I want to make a couple remarks I think the American people ought to hear. You know we are talking about America today as it she is in some tremendous strait of doldrums, that we are worse off than anyone in the World. We constantly talk as if we were as good as this or that. Let me tell you right now, today the American people have the highest standards of living in the World. I am sure many Americans would not believe that, because the other side has been telling them for months on end how bad we are. Highest standard of living in the World. Productivity of our manufacturing workers and manufacturing business, highest in the World. You would think from what has been said that the Japanese have us beat. Already we are dead. As a matter of fact, the problem is they are catching up but we are still the highest.

How about how many Americans are working? We talk about unemployment—117,600,000 American men and women got up yesterday and went to work. In proportion to our population, the highest number of any country in the World.

Guess how many businesses in the United States are owned by women as of 2 years ago? Today 4.8 million women own businesses in America, up 45 percent in one decade. Now we talk about the wage gap between men and women. It was closed by 70 percent in the decade that they get up and whine and wimp about which was so terrible for the American people. And we can go on and on.

What we are really talking about tonight in essence is will a game plan by the Democratic nominee, Gov. Bill Clinton, improve American's livelihood, their standards of living, their status in the World, or will it do nothing but increase the deficit and spend more money?

I choose to say that unequivocally that plan is not a plan to cut the deficit of the United States which the other side has been saying is the most important thing we ought to do. It will not cut the deficit. It will add to the deficit, the largest new spending by the Government ever. It will increase taxes. And, as I see it, the current America which leads the World in exports—that is another surprising one; everybody would talk about we are out of it—we are the leading exporter in the World. I submit adopt the Clinton plan and instead of those positives remaining they will start going the other way.

Mr. President, I ask unanimous consent to print in the RECORD an article from Policy Bites entitled, "Is U.S. Income Inequality Really Growing?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Policy Bites, June 1992]

IS U.S. INCOME INEQUALITY REALLY GROWING (By Isabel V. Sawhill and Mark Condon)

It is widely believed that U.S. incomes have become more unequal since the early 1970s. This conclusion is based on studies by the Ways and Means Committee, the Congressional Budget Office, a variety of think tanks, and countless academics. Each has used Census data on incomes to measure how different income groups have fared over the past decade or two.

Liberal politicians cite these studies as evidence that American society is becoming more stratified, that the rich are getting richer and the poor poorer. Conservatives respond that these analyses are flawed—arguing that they fail to recognize the tremendous individual mobility hidden within the averages.

This debate on what has been happening to the distribution of income is not new. At issue is not just the facts but how to interpret the facts. Here we seek to clarify the debate by looking at data on a sample of individuals whose incomes were tracked between 1967 and 1986. Based on our analysis to date, the story is as follows:

1. If we rank all the jobs or other income-producing opportunities in society from highest to lowest, we find a growing gap between the top and the bottom. The rewards for success or good fortune have gotten larger and the penalties for failure or bad luck have grown correspondingly.

2. When society's reward structure is highly unequal it puts a big premium on individual income mobility. As long as there is a lot of mobility, an unequal reward structure is not necessarily a problem. If there is little mobility, then it is. Individual mobility in the United States falls somewhere between "a lot" and "a little." Many people do move from one income stratum to another. When one follows individuals rather than statistical groups defined by income, one finds that, on average, the rich got a little richer and the poor got much richer over both the decades for which we have data.

3. Lifetime incomes may still be getting more unequal, however. If the reward structure is getting more unequal, lifetime incomes are going to be more unequal unless growing wage inequality is offset by more mobility between jobs or other income-earning opportunities. We find no evidence that individual mobility increased between the 1970s and the 1980s.

THINKING ABOUT FAIRNESS

Joseph Schumpeter, a famous economic historian, once likened the distribution of income to rooms in a hotel—always full but of different people. In a hotel in which all the rooms are alike it doesn't matter which one you occupy. But in most hotels, as in most societies, some rooms are exceedingly luxurious, others are quite shabby, and which room you end up in matters a lot. Fairness requires that you have an opportunity to change rooms. For example, if you started out occupying a shabby room when you were young but graduated to increasingly more luxurious rooms as you got older, this could be considered perfectly fair. Or if everyone took turns spending a few nights in the room with the bedbugs and the lousy mattress, no one would complain. Over a sufficiently long period of time (say, a lifetime) everyone's experience would be the same. But, if the best rooms were always reserved for the privileged few and the shabby ones for the unfortunate many, some might question the fairness of the arrangements. What about the hotel we call the U.S. economy?

HOW INEQUALITY IS USUALLY MEASURED

To measure inequality, the U.S. Census Bureau each year looks at the hotel registry to see how many people are occupying each type of room. It ranks all families by their annual incomes from highest to lowest and sorts them into statistical groups. The 20 percent of all families with the lowest incomes are called the bottom quintile, the next 20 percent of families are called the second quintile, and so on . . . until all families are sorted into one of five quintiles. Later this year, the Census will re-rank all these families (as well as any new ones) according to their 1991 incomes. To test whether economic inequality has risen, the average income of each quintile in 1990 will be compared to the average income of that same quintile in 1991, even though each quintile may now contain a different set of individuals. These are the kinds of calculations that have been used to conclude that "the rich are getting richer and the poor poorer" over the last decade or two.

We need other data to track the process of who is changing rooms or quintiles. The University of Michigan's Panel Study of Income Dynamics (PSID) has followed a representative group of households since 1967. From this survey, we have selected all individuals, ages 25 to 54, in two years, 1967 and 1977, and then calculated what happened to their incomes over the subsequent decade (1967-76 and 1977-86, respectively).

THE HOTEL NOW HAS A GREATER VARIETY OF ROOMS

If, following the standard method of measuring inequality, we rank all these PSID individuals into income quintiles in each year and then calculate the percentage increase in average income for each quintile, we get a similar pattern to what one sees in Census data. Like the Census data, the PSID data suggest that after growing between 1967 and 1976, the average income of the bottom quintile declined between 1977 and 1986. In both periods, the average income of the top quintile grew rapidly.

What has caused this growth in income inequality as conventionally measured? Most analyses have shown that the main cause is the growing inequality of earnings. Although the tax system is a little less progressive than it was in the past and the safety net somewhat frayed, these changes have not been as important as the increasing gap between the wages of higher-paid and lower-paid workers.

Put simply, the economy now offers people jobs that vary more widely in terms of quality and pay. The economy increasingly resembles a hotel with luxury suites for some and substandard rooms for others, rather than a roadside motel with rooms of uniform quality. The less equal distribution of earnings, in turn, appears to be related to technological changes and international competition, which have put a high premium on education and experience. The rewards for both have been increasing since the late 1970s. Unless income mobility has increased in ways that offset these structural changes in the economy, lifetime earnings may become increasingly unequal.

PEOPLE SWAP ROOMS OFTEN

Individual mobility in the United States is substantial (Table 1). The white cells in the table show the proportions who did not change quintiles. For example, the number in the top left hand cell of the table represents the proportion (11.2/20 or 56 percent) of individuals in the bottom quintile in 1967 who were still in that quintile in 1976.

In both decades, some three out of five adults changed income quintiles. A little less than half the members of the bottom quintile moved up into a higher quintile, and about half the members of the top quintile fell out of that quintile. In both periods, more than two-thirds of those who started out in the middle quintile had moved up or down into a different quintile by the end of the period.

If mobility between income classes is a glass that is half full, it is also half empty. A little more than half the occupants of the bottom quintile had not risen out of that quintile ten years later, and half of the occupants of the top quintile remained there ten years later.

Nonetheless, the mobility that did occur ensured that over both decades, on average, the poor (here defined as those in the bottom quintile at the beginning of each decade) grew much richer, by 72-77 percent. The rich (defined as those in the top quintile at the beginning of the decade) grew a little richer, by 5-6 percent. (See Table 2).

These figures will not surprise the experts. Any significant mobility should lead to the same pattern. People who start at the bottom have nowhere to move but up, and are likely to do so as they become older, gain work seniority, and earn higher incomes. People who start at the top, some of whom may be there because of temporary sources of income like capital gains, have nowhere to go but down. This pattern, however, may be surprising to the general public, which has been led to believe that the poor were literally getting poorer over the last decade or two, and that the incomes of the rich were skyrocketing. This is simply not true.

PEOPLE DO NOT SWAP ROOMS MORE OFTEN THAN IN THE PAST

While mobility was substantial in both periods, U.S. mobility has not been increasing over time (see Table 1 again). In fact, there is little discernible trend in mobility at all. The slight changes between decades are too small to be meaningful, and depend to some extent on the age limitations of our sample.

The absence of any upward trend in income mobility suggests to us that lifetime incomes are becoming more unequal. The reasoning is straightforward. The bad jobs in our economy are now paying less in real terms than they did in the early 1970s and the people who hold them aren't moving out of them with any more frequency than before. We can expect their lifetime incomes to be lower than those of people who held these jobs in the past.

The good jobs in our economy are now paying a lot more than they used to and the people who hold them don't appear to be moving out of them with any more frequency than before. Their lifetime incomes will be a lot higher than the lifetime incomes of their earlier counterparts. The result, then, of higher pay at the top and lower pay at the bottom is greater lifetime income inequality.

To partially test this hypothesis, we averaged the total income of each individual in our sample over two ten-year periods, 1967-76 and 1977-86, and then ranked all individuals into five quintiles in both periods (Table 3). By averaging income over a ten-year period, we take account of each person's mobility over that period and get a more permanent measure of income. Looked at over a 10-year period, the average person had a family income of \$46,260 in the first decade and \$52,125 in the second decade. In the second period, however, there was greater inequality. This finding suggests that lifetime incomes are

becoming more unequal. So, while the annual income distributions may mislead the public about how much mobility occurs, they do accurately reflect an increase in inequality in the U.S.

A ROOM OF ONE'S OWN IS NOT NECESSARILY A ROOM WITH A VIEW

While many individuals swap rooms over time, the degree of mobility in the U.S. economy is not sufficient to ensure everyone a room with a view. Although the poor can "make it" in America, and the wealthy can plummet from their perches, these events are neither very common nor more likely to occur today than in the 1970s.

Indeed, since the rooms at the top have an increasingly nice view, while the ones at the bottom have deteriorated, some will conclude that the hotel we call the U.S. economy has become a more class-stratified place to live. Others will argue that the lure of a better view is what induces people to try to change rooms in the first place.

Whether the notion of class is half full or half empty depends on your perspective.

TABLE 1.—DISTRIBUTION OF INDIVIDUALS IN FINAL YEAR BY QUINTILE LOCATION IN STARTING YEAR

Family income quintile in 1967	Family income quintile in 1976					
	Bottom	Second	Third	Fourth	Top	All
Bottom	11.2	5.2	2.0	1.3	0.3	20.0
Second	4.1	6.0	5.0	3.0	1.7	19.8
Third	2.5	4.2	6.0	4.9	2.4	20.1
Fourth	1.3	2.9	4.7	5.9	5.2	20.0
Top	0.9	1.8	2.1	4.8	10.4	20.0
All	20.0	20.0	19.9	20.0	20.0	100.0

Family income quintile in 1977	Family income quintile in 1986					
	Bottom	Second	Third	Fourth	Top	All
Bottom	10.6	5.0	2.2	1.3	0.8	20.0
Second	4.3	6.0	5.1	2.9	1.7	20.1
Third	2.9	3.8	5.9	4.8	2.6	20.0
Fourth	1.0	2.9	4.3	6.8	5.0	20.0
Top	1.2	2.2	2.5	4.1	10.0	20.0
All	20.0	20.0	20.0	20.0	20.0	100.0

Note.—Sample limited to adults, ages 25 to 54 in starting year.

Source: Urban Institute.

TABLE 2.—AVERAGE FAMILY INCOMES OF INDIVIDUALS BY THEIR QUINTILE POSITION IN STARTING YEAR (1991 DOLLARS.)

Quintile	Average family income of:		Percent change
	1967 quintile members in 1967	1967 quintile members in 1976	
Bottom	\$14,544	25,082	72
Second	26,979	41,018	52
Third	35,900	48,492	35
Fourth	46,115	57,839	25
Top	72,772	76,915	6
All	39,262	49,869	27

Quintile	Average family income of:		Percent change
	1977 quintile members in 1977	1977 quintile members in 1986	
Bottom	\$15,853	27,998	77
Second	31,340	43,041	37
Third	43,297	51,796	20
Fourth	57,486	63,314	10
Top	92,531	97,140	5
All	48,101	56,658	18

Source: Urban Institute

Note.—Sample eliminated to adults, ages 25 to 54 in starting year.

TABLE 3.—REAL FAMILY INCOMES OF INDIVIDUALS AVERAGE OVER 10 YEARS (1991 DOLLARS.)

Quintile	Average annual family income.		Percent change
	1967-76	1977-86	
Bottom	\$18,293	18,579	2
Second	32,785	34,084	4
Third	42,636	46,082	8
Fourth	54,100	60,594	12
Top	83,486	101,286	21
All	46,260	52,125	13

Source: Urban Institute

Note.—Sample eliminated to adults, ages 25 to 54 in starting year.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 10 minutes.

Mr. SASSER. Mr. President, a number of Senators wished to speak. I yield to the Senator from Maryland 30 seconds, 3 minutes to my friend from Iowa, 2 minutes to my distinguished colleague from Michigan, and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 30 seconds.

Mr. SARBANES. Mr. President, I appreciate it.

I did not at any point say that the President was intentionally misleading the American people when he said on Thursday night he thought the economy was getting better, and on Friday morning we had the highest unemployment rate reported in the course of this recession.

In fact, my own interpretation is that the President really does not understand or feel what is going on across the country. That is not intentional deception; that is the failure of the President to understand what working Americans are coming up against.

The fact of the matter is that we are in a jobs recession.

The PRESIDING OFFICER. The 30 seconds have expired.

Mr. SARBANES. Will the Senator yield 30 additional seconds?

Mr. DOMENICI. I yield 30 additional seconds.

The PRESIDING OFFICER. The Senator is yielded 30 additional seconds.

Mr. SARBANES. I make this point. We are in a jobs recession. The President needs to recognize it; refused to do it all last year; would not recognize we are in a recession—oh, no, there is no problem, no problem. Meanwhile people out there out of work. Nine and a half million. Another 6.5 million working part time want to work full time. In previous recoveries coming out of the trough the economy has gone at this rate and restored within the first 13 months all the jobs that have been lost.

This is what has happened in this recession. We are simply not coming out of it. And the unemployment rate is at 7½ percent and the President does not understand it.

The PRESIDING OFFICER. The additional 30 seconds allocated to the Senator has expired.

Under the previous order, the Chair's understanding is that 3 minutes were allocated to the Senator from Iowa.

Mr. HARKIN. Mr. President, it is fairly obvious now that the plan put forward by Governor Clinton certainly flushed the foxes out of the hole this time. But the American people are not going to be outfoxed again by all this talk about big government and tax and spend, because the American people have the record.

My friends on the right everyone got up in support. They all supported the Bush economic program over the last 3½ years. We do not have to read their lips, Mr. President. We can read the record. There it is under the Bush administration. They said the American economy has grown less than 1 percent a year, the lowest growth since Herbert Hoover; 9.9 million Americans out of work.

Mr. Bush when he ran for President in 1988 said he was going to create 30 million jobs. Do you know how many he created—500,000. He is only 29½ million short.

Now, the real wages of American workers have dropped 9 percent below the level of 1979. Yet the income of the top 1 percent of America has gone up 77 percent.

Governor Clinton's program is put people first; the Republicans program is put wealthy people first. That is the difference, Mr. President. And the American people know it.

The minority leader earlier this evening got on the floor and he said that the American people are demanding paychecks. Amen, brother. They sure are. But they are not demanding paychecks that pay them 9 percent less than what they made in 1979 and not demanding minimum wage deadend paychecks.

They want paychecks where they can raise their families, educate the kids, and buy a home and a car. That is what they want, not the kind of jobs that Mr. Bush has given them, minimum wage, deadend jobs.

The number of people who filed for bankruptcy last year was 1 million, one of the highest.

What this plan is of Governor Clinton is a bold investment plan for the future to invest in infrastructure, physical infrastructure, human infrastructure.

Yes, Mr. President, this is not a trickle-down economic plan. It is not voodoo economics. It is percolate up, invest in the people, build the base of America, get America back to work again.

The economic plan of George Herbert Walker Bush, Mr. President, is the economic equivalent of unconditional surrender to our economic competitors around the world.

This plan of Governor Clinton's is a bold investment plan. Yes, it is change; and yes, it is future oriented.

You know, I always knew the conservatives did not want to change, Mr.

President. But my friends on the right have now given new meaning to the word conservative: Stand pat; do nothing; cover your heads, and hope for the best. That is the Bush economic program.

The American people are not going to stand pat. They are not going to cover their heads.

This is what we need, Mr. President, a bold plan to change this country; the Clinton program, to invest in our people in America.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, this debate, I think, makes it clear. We are hearing the same rehash of the old supply side economics that created this terrible problem in the country that we have now.

It is very simple. Our friends on the other side are in here tonight protecting their wealthy friends, who got all the big tax cuts during the 1980's. And the theory was: Give the wealthy people the tax cuts. They will spend it. It will trickle down, and eventually get down somewhere in the bottom and create jobs for other people.

It did not work. Now, we have massive unemployment in this country. We have engineers out of work, driving taxicabs, if they can find a job. There are teachers who want to teach; there are no jobs in teaching for them.

We have a terrible problem in the country, and now the Bush administration wants to take this supply side nonsense worldwide. So now they have an economic plan for every country in the world except this one. They have one for Mexico; they have one for the old Soviet Union. They are going to be in here in a few days asking for money to help the old Soviet Union create jobs over there. We have one for Communist China. We have one for Kuwait. They have a supply side plan for all the rest of the countries in the world, but no jobs plan for America.

And America is sick and fed up with that kind of a situation. That is why we are going to get a new President elected this year; we are going to see that happen. But when they come in here now, preaching that same old line, protecting again their wealthy friends that have all these huge tax cuts, now they want to turn it around.

You know, the President—I do not think he has any sense of what is really happening in America today. We have unemployment in this country at 7½ percent. We are short 14½ million jobs on this chart from what the President himself promised just 3½ years ago.

So we have to have a change. We have to have a new President. We have to have an economic plan for this country, and we have to have a President who is going to be a President not just for the rest of the world, but a President for America.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, I yield 2 minutes to the distinguished Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from Tennessee.

Let me just say, for sheer hypocrisy, the other side has done it again. To criticize the Clinton plan on adding debt, when we have a record in this administration that is unparalleled in the world history of adding debt, takes the cake.

Mr. President, this President has sent us a plan to add \$1.8 trillion to the national debt over the next 5 years. That is after they have already increased the debt over fourfold during the Reagan-Bush administration.

And now they say send us a plan. And the plan they have sent adds \$1.8 trillion to the national debt. The record of the other side is very clear. It is the three D's: Debt, deficits, and decline. Add \$1.8 trillion to the debt; have the biggest deficits ever in the history of this country—\$400 billion this year; and decline, Mr. President, no economic growth during the Bush administration. None. No productivity growth in this administration. None.

That is a record of debt, deficits, and decline, Mr. President. And if we are going to have an argument and debate about economic policy, let it begin and let it begin now.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. 1 minute.

Mr. SASSER. Mr. President, just let me make a point here, again. I think it is well worth making.

The administration and this President promised, when he took office, that he would create 15 million new jobs. The 15 million new jobs are represented here on this chart by the blue line.

Let us look at performance versus promises. Of the 15 million new jobs that he promised, look at what we have represented by the yellow as actual jobs. It is the worst economic performance of any President since Herbert Hoover.

Now, we sent this President a growth and economic recovery plan. And I say to my friend from Texas—and I am sorry he left the floor—it contained six out of the seven economic recovery proposals that the President himself had proposed.

But the President vetoed that plan, and he vetoed it for one reason, and one reason only: Because it raised taxes on the top 1 percent of the American people, the multimillionaires who have profited during the decade of the 1980's. And he ignored the fact that it

gave a tax cut to the remaining 99 percent of the taxpayers. He vetoed his own economic recovery plan because it increased taxes on his millionaire buddies.

Mr. SARBANES. Will the Senator yield?

The plan would have given the growth incentive and given the middle-income people a tax break; would it not?

Mr. SASSER. Yes.

Mr. SARBANES. Paid for by the taxes on the very rich?

Mr. SASSER. Yes.

The PRESIDING OFFICER. The time of the Senator has now expired.

Mr. SASSER. Mr. President, I now withdraw the amendment that had previously been offered on behalf of myself, Senator MITCHELL, Senator SARBANES, and Senator RIEGLE.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 2450) was withdrawn.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TRIBUTE TO ALFRED FITT

Mr. SASSER. Mr. President, I rise today to pay tribute to one of the founding staff members of the Congressional Budget Office, Alfred B. Fitt, CBO's first and only general counsel since the office was established in 1975. Later this year, Alfred will retire after a lifetime of public service.

Alfred Fitt began his public career in 1954 as legal adviser to the Governor of Michigan. From 1960 to 1961, he was staff counsel for the Senate Judiciary Subcommittee on Administrative Practice and Procedure. In 1961, Mr. Fitt was chief counsel for Project Tightrope, a study of FAA regulatory and enforcement procedures. He served as Deputy Under Secretary—Manpower—for the Army until 1963, when he became Deputy Assistant Secretary of Defense—Civil Rights. For the next few years, 1964 to 1967, Alfred served as General Counsel of the Army, where he also had policy and budget responsibility for the Corps of Engineers' civil works program. From 1967 to 1969, he was Assistant Secretary of Defense—Manpower. Alfred Fitt then left Federal service for 6 years to serve as special adviser for the office of the president at Yale University, where his work was chiefly concerned with Federal policy affecting higher education.

Alfred was among a handfull of experts whom Alice Rivlin consulted

when she was appointed the first Director of the Congressional Budget Office. His background in defense and education issues, plus his legal experience, enable Mr. Fitt to provide valuable advice and counsel to Dr. Rivlin as she organized CBO and laid out its work agenda. Alfred was instrumental in setting in place the appropriate guidelines and procedures for the nonpartisan office that provided a solid foundation for its work. He also served as a capable internal reviewer of policy analyses produced by the agency. When the Balanced Budget and Emergency Deficit Control Act was enacted in 1985, Alfred provided a steady stream of useful legal advice on how to implement the complex procedures for controlling the budget.

Alfred Fitt was supervisor for the first several reports in an annual CBO series on options for reducing the deficit. These compilations of alternative ways of raising revenue or reducing spending have become CBO's most widely circulated reports and have provided the ingredients for numerous deficit reduction proposals. In the 1984 edition, Fitt's introductory chapter opined prophetically that the "Government is on a course for which history provides no charts."

Over the 17 years that he has been with the Congressional Budget Office, Alfred has been the source of wise counsel to three Directors and two Acting Directors. As a key member of the senior management staff, Alfred can be proud of his contributions to making CBO the respected institution it is today. The appreciation we feel for the work of CBO is due in no small part to his efforts. At a time when much cynicism abounds concerning public servants, it is refreshing to recognize an individual of Alfred Fitt's stature, who, by personal commitment and education, has contributed to the strengthening of public service.

Mr. President, I wish Alfred all the best in his retirement. He deserves the gratitude of us all.

Mr. DOMENICI. Mr. President, if the Senator has no objection, I wish to associate myself with his remarks.

The CBO is a nonpartisan body, and the general counsel has done an admirable job.

MORNING BUSINESS

NATIONAL TEACHERS HALL OF FAME

Mrs. KASSEBAUM. Mr. President, Emporia State University in Emporia, KS, is the home of the National Teachers Hall of Fame. With its establishment, we can now pay special tribute to one of the world's most important professions.

The vision for the Hall of Fame came about as a joint project of Emporia

State University, the ESU Alumni Association, and the city of Emporia. Since organizers began working on the project in 1988, the Hall of Fame has received the support and endorsement of national organizations such as the National Education Association, the American Federation of Teachers, and the National Parent Teachers Association. The project encompasses three components: a museum and exhibition center; an education study and conference center; and a teacher recognition program.

It is the teacher recognition program that I laud today. On June 20, the National Teachers Hall of Fame inducted the first 5 teachers. They are a group of remarkable individuals of diverse talents and interests. There is much they have in common, however—dedication to academic excellence and an enthusiasm for introducing their students to the thrilling adventures that await the curious mind. Each new school year, each new class is the opportunity to reach out and guide, to provide the setting where the difficult becomes understandable, the irrelevant gains meaning. All these fine individuals are involved in education on many different fronts, have active roles in academic organizations, and have already received many awards. With the National Teachers Hall of Fame, the very best of the best can be honored, and it is a pleasure to introduce them to you.

For Sheryl Abshire of Lake Charles, LA, teaching is a passion, "not an art or science." She views her mission as providing the opportunity where students can learn and experiment, gaining confidence for the independent journeys they will take throughout their lives. Mrs. Abshire has combined her love of teaching with today's technology, and her electronic bulletin board is widely used by students, teachers, and administrators. In addition, her students have produced, filmed, and directed the award-winning channel 7 "Kids News." She inspires other to share her vision.

Anna Alfiero of Norwichtown, CT, has been a teacher for 30 years. From childhood on, she has wanted to be a teacher and she, too, is an inspiration to students and colleagues alike. Never has excellence in science and math been more important than it is today, and that is what Mrs. Alfiero teaches—science and math and excellence. Her students worked together on science projects long before collaborative efforts were in vogue. They also receive daily stock market information so they can learn about economics and investment. Her thrill is in having her students say, "I got it," for that is the information they will need for tomorrow. Mrs. Alfiero describes "the art of teaching as ordinary people creating an extraordinary work of art—a human masterpiece." That may be her belief, but Mrs. Alfiero is anything but ordinary.

Helen Case, a former Kansas Teacher of the Year from El Dorado, KS, retired in 1973 after 45 years in the classroom. Becoming a doctor was her first career choice, but she did not have the opportunity to pursue that goal. Teaching may have been her second choice, but Miss Case, nevertheless, equates it with the medical profession. Where doctors heal bodies and minds, teachers take those minds and bodies "and give them the tools needed to face the society which they inherited." It comes as no surprise, then, to learn that Miss Case was a teacher of history, social science, and citizenship, and her students were prepared for the society they inherited through mock Congresses, national conventions, elections, and remote broadcasts. The truly dedicated teacher never really retires, and Miss Case proves that daily by remaining just as active, involved, and informed as she was throughout her teaching days.

From Detroit, MI, is Shirley Cunningham Naples, another retired teacher. She termed her first class as "the best in Wilson School"; she rated her last as "the best in the universe." These evaluations are typical of the enthusiasm and devotion she brought to her work. Her formula for success was simple—begin each school year by telling her pupils that they were the best, that they would achieve the highest test scores, that they would behave better than the rest of the student body—and that they would have fun in the process. Her job was teaching; theirs was learning. The success of her formula can be found in her students' high test scores and awards in writing, art, and math.

In the course of his career, Joseph Stafford York of Memphis, TN, has worn several different hats. He was first a minister when he realized his true calling was in the classroom. He later went into medical administration only to discover the pull of the classroom too strong to resist. Happily, that is where you will find Mr. York today. He believes his students have "a right to a teacher who believes in them and in himself," and his influence on them has been great and lasting. In addition to teaching in junior and senior high, Mr. York tutors teachers preparing for the National Teachers Exam and graduate entrance exams; he tutors children in the community; and he teaches evening classes at area universities and the regional State prison. Where others may call him a teacher of English, he considers himself a teacher of children, a distinction that has made Mr. York the highly motivated and effective teacher he is today.

Graham Greene once observed that "there is always one moment of children when the door opens and lets the future in." Fortunate, indeed, are the students who found these caring and dedicated teachers awaiting them at

the classroom door. The freshman class of the National Teachers Hall of Fame has set the standard of excellence against which all future classes will be measured.

CREDIT AVAILABILITY AND REGULATORY RELIEF ACT OF 1992—MESSAGE FROM THE PRESIDENT—PM 253

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the "Credit Availability and Regulatory Relief Act of 1992." This proposed legislation will enhance the availability of credit in the economy by reducing regulatory burdens on depository institutions. Also transmitted is a section-by-section analysis.

The regulatory burden on the Nation's financial intermediaries has reached a level that imposes unacceptable costs on the economy as a whole. Needless regulations restrict credit, slowing economic growth and job creation. Excessive costs weaken financial institutions, exposing the taxpayer to the risk of loss. Rigid supervisory formulas distort business decisions and discourage banks, thrifts, and credit unions from pursuing their core lending activities. In 1991, the Nation's banks spent an estimated \$10.7 billion on regulatory compliance, or over 59 percent of the system's entire annual profit. We cannot allow this unnecessary and oppressive burden to continue weighing down the consumer and business lending that will fuel economic recovery.

The Credit Availability and Regulatory Relief Act of 1992 reduces or eliminates a wide range of these unnecessary financial institution costs. Among the significant changes that would be made by the bill are:

- Elimination of the requirement that banking agencies develop detailed "micromanagement" regulations for every aspect of an institution's managerial and operational conduct, from the compensation of employees to the ratio of market value to book value of an institution's stock;
- Enactment of a statutory requirement that the regulations of the various Federal banking agencies be as uniform as possible, to avoid the complexity, inconsistencies, and comparative distortions that result from widely varying regulatory practices;
- Reduction of audit costs, by returning auditors to their traditional function of investigating the accu-

racy of depository institution financial statements and eliminating the costly and misguided expansion of their role over legal and managerial matters;

- Alleviation of the significant paperwork burden imposed by the Community Reinvestment Act on small, rural depository institutions without exempting such institutions from the substantive requirements to satisfy the credit needs of their entire communities—coupled with creation of incentives for institutions to reach higher levels of compliance by streamlining expansion procedures for institutions with outstanding Community Reinvestment Act ratings; and
- Elimination of the requirement that the Federal Reserve write detailed "bright line" regulations on the amounts of credit that one depository can extend to another, thus retaining the Federal Reserve's existing flexibility to supervise the payments system without unduly inhibiting correspondent banking relationships.

These changes, and the others made by the bill, will result in significant reductions to the administrative costs of depository institutions—costs that are currently passed on to borrowers in the form of restricted credit and higher priced loans.

I would like to emphasize that none of the bill's provisions will compromise in any way the safety and soundness of the financial system. The legislation makes no changes to those elements of the Administration's proposed supervisory reforms that the Congress did adopt last year. All existing capital standards will remain in force and will be neither weakened nor modified by the proposed legislation; the "prompt corrective action" framework mandating swift regulatory responses to developing institutional problems will remain unchanged; and bank regulators will continue to have exceptionally tough enforcement powers.

The legislation I am transmitting to you today is a broad and responsible solution to one of the major problems facing our financial system. The financial industry, the economy, and the public generally will benefit from enactment of this regulatory relief. I therefore urge the Congress to give high priority to the passage of the Administration's reforms.

GEORGE BUSH.

THE WHITE HOUSE, June 24, 1992.

MESSAGES FROM THE HOUSE

At 11:40 a.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, in which it requests the concurrence of the Senate:

H.R. 5055. An act to authorize appropriations for the Coast Guard for fiscal year 1993, and for other purposes.

At 2:15 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 2507) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

H.R. 2818. An act to designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building," and for other purposes;

H.R. 3041. An act to designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building";

H.R. 4548. An act to authorize contributions to United Nations peacekeeping activities; and

H.J. Res. 509. Joint resolution to extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for school operations costs of Bureau-funded schools.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5055. An act to authorize appropriations for the Coast Guard for fiscal year 1992, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following concurrent resolution, previously received from the House of Representatives for concurrence, was ordered to be placed on the calendar:

H. Con. Res. 192. A concurrent resolution to establish a Joint Committee on the Organization of the Congress.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The PRESIDENT pro tempore (Mr. BYRD) reported that on today, June 24, 1992, he had signed the following enrolled bills and joint resolution previously signed by the Speaker of the House:

S. 250. An act to establish national voter registration procedures for Federal elections, and for other purposes;

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration; and

H.J. Res. 470. Joint resolution to designate the month of September 1992 as "National Spina Bifida Awareness Month."

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, June 24, 1992, he had presented to the President of the United States the following enrolled bills:

S. 250. An act to establish national voter registration procedures for Federal elections, and for other purposes; and

S. 2703. An act to authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3462. A communication from the Chairman of the National Commission on Libraries and Information Science, transmitting, pursuant to law, a report on a violation of the Antideficiency Act by the White House Conference on Library and Information Services; to the Committee on Appropriations.

EC-3463. A communication from the Deputy Under Secretary of Defense (Acquisition), transmitting, pursuant to law, a report on the Air-Launched Cruise Missile Flight Data Transmitter plan implementation for fiscal years 1992 and 1993; to the Committee on Armed Services.

EC-3464. A communication from the Assistant Secretary of Energy (Environmental Restoration and Waste Management), transmitting, pursuant to law, notice of submission of a Five-Year Plan on the management of environmental restoration and waste management activities at facilities under the jurisdiction of the Department of Energy; to the Committee on Armed Services.

EC-3465. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the President of the United States' determination that the People's Republic of Angola has ceased to be a Marxist-Leninist country; to the Committee on Banking, Housing, and Urban Affairs.

EC-3466. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report on HUD's Five-Year Energy Efficiency Plan; to the Committee on Banking, Housing, and Urban Affairs.

EC-3467. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to improve the management and efficiency of the United States Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3468. A communication from the Acting Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on the progress on developing and certifying the traffic alert and collision avoidance system; to the Committee on Commerce, Science, and Transportation.

EC-3469. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Secretary of Commerce for the fiscal year ending September 30, 1991; to the Committee on Commerce, Science, and Transportation.

EC-3470. A communication from the Acting Administrator of the Federal Aviation Administration, transmitting, pursuant to law, a report on the FAA's progress in providing sensitive drug-related information to Federal, State, and local law enforcement agencies engaged in drug interdiction; to the Committee on Commerce, Science, and Transportation.

EC-3471. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Department of the Interior covering the Outer Continental Shelf Natural Gas and Oil Leasing and Production Program for fiscal year 1991; to the Committee on Energy and Natural Resources.

EC-3472. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3473. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the Department of Energy's civilian radioactive waste management program; to the Committee on Energy and Natural Resources.

EC-3474. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on the North Carolina Striped Bass Conservation Act; to the Committee on Environment and Public Works.

EC-3475. A communication from the Senior Vice President of the Federal Intermediate Credit Bank of Jackson, transmitting, the annual report on pension plans for calendar year 1991; to the Committee on Governmental Affairs.

EC-3476. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the semiannual report of the Inspector General covering the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3477. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Department of Commerce on final action for Inspector General audits for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3478. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General of the Appalachian Regional Commission for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3479. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the semiannual report of the Inspector General of the Federal Trade Commission for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3480. A communication from the Inspector General of the General Services Administration, transmitting, pursuant to law, the audit report register of the GSA for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3481. A communication from the Acting Director of the Peace Corps of the United

States, transmitting, pursuant to law, the semi-annual report of the Peace Corps' Inspector General for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3482. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of Labor for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3483. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Pension Benefit Guaranty Corporation's Office of the Inspector General for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3484. A communication from the Chairman and General Counsel of the National Labor Relations Board, transmitting, pursuant to law, the semiannual report of the Inspector General of the National Labor Relations Board for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3485. A communication from the Secretary of Transportation, transmitting, pursuant to law, the semiannual report of the Inspector General and the semiannual report on Management Decisions and Final Actions of the Inspector General Audit Recommendations for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3486. A communication from the Secretary of Commerce, transmitting, pursuant to law, the semiannual report of the Inspector General of the Department of Commerce for the 6-month period ending March 31, 1992; to the Committee on Governmental Affairs.

EC-3487. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the activities of the Office of Management and Budget under the Freedom of Information Act for calendar year 1991; to the Committee on the Judiciary.

EC-3488. A communication from the Secretary of Education, transmitting, pursuant to law, a report entitled "Notice of Final Funding Priority—Special Studies Program"; to the Committee on Labor and Human Resources.

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. WELLSTONE:

S. 2886. A bill to support the development of local and regional democratic institutions in the independent states of the former Soviet Union; to the Committee on Foreign Relations.

By Mr. MCCONNELL (for himself, Mr. GRASSLEY, and Mrs. KASSEBAUM):

S. 2887. A bill to amend title IV of the Social Security Act to provide that the Secretary of Health and Human Services shall enter into an agreement with the Attorney General of the United States to assist in the location of missing children; to the Committee on Finance.

By Mr. EXON:

S. 2888. A bill to amend title XVIII of the Social Security Act to provide for guidelines clarifying the reclassification of one rural area to another rural area for purposes of de-

termining reimbursement rates to hospitals under medicare; to the Committee on Finance.

By Mr. BOREN:

S. 2889. A bill to repeal section 5505 of title 38, United States Code; to the Committee on Veterans Affairs.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 2890. A bill to provide for the establishment of the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. BOND, Mr. GARN, Mr. GRASSLEY, and Mr. MCCAIN):

S. 2891. A bill to authorize the Administrator of the Environmental Protection Agency to establish a program to provide career training through the hazardous substance research center program of the Environmental Protection Agency to qualified military personnel and qualified Department of Energy personnel to enable such individuals to acquire proficiency in hazardous and radioactive waste management, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL:

S.J. Res. 322. A joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of the office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

By Mr. SIMON:

S.J. Res. 323. A joint resolution designating October 30, 1992, as "Refugee Day"; 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. SHELBY (for himself, Mr. DOLE, and Mr. SIMON):

S. Con. Res. 126. A concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 2886. A bill to support the development of local and regional democratic institutions in the independent states of the former Soviet Union; to the Committee on Foreign Relations.

INTERNATIONAL LOCAL GOVERNMENT EXCHANGE ACT

• Mr. WELLSTONE. Mr. President, last week we heard Russian Federation President Boris Yeltsin promise that his democratic reforms were moving forward, and that the success of those reforms depends upon critical assistance from the West. Along with many of my colleagues, I have been deeply impressed by his commitment to reform. Even in the face of pressing domestic needs, many of us have indicated our consistent support for help-

ing his government and the Russian people establish a democratic polity and strong democratic traditions because we believe such democratization is in our national interest.

In anticipation of the upcoming debate on aid to the independent republics of the former Soviet Union, I am today introducing legislation to authorize a comprehensive 5-year, people-to-people exchange program designed to help the republics build strong, vital democratic institutions of local and regional governance. Establishing democratic local governments throughout the republics that are responsive to local problems is critical to the democratic transformation of the republics. The success of their efforts to democratize their systems of government and privatize their economies will depend in large part on the willingness of their diverse regional and local governments to stay in the Federation, maintain peaceful relations, and develop solutions to local problems and concerns.

Last December, I traveled to the former Soviet Union to assess firsthand a key period in its political and economic transformation. During that visit, I attended a conference on federalism sponsored by the Foundation for Social and Political Research in Moscow, which included parliamentarians and other public officials from the various Republics, and experts and prominent scholars from all over the world, committed to establishing a workable system of federal government there rooted in and responsive to local needs. Almost without exception, the Russian officials expressed a strong desire for extensive consultations with knowledgeable and experienced administrators from the West who could help them to develop a democratic polity and establish democratic institutions. They especially underscored their need to develop expertise both to deal with the everyday problems confronting local and regional governments and to manage the dramatic changes that will flow from the establishment of autonomous and democratic institutions of local government.

This legislation, the provisions of which I hope will be incorporated into the Freedom Support Act, would establish an international exchange program for public officials and public administrators from all levels of State and local government, under the aegis of an agency assigned by the President to carry out this mission. While I have designed the bill to give the president flexibility in executing the program, I believe the program would complement similar public official, media, business and other exchange programs already being undertaken by the United States Information Agency [USIA], and I would expect this program to be administered by USIA as well.

While my proposal establishes an international exchange program for

public administrators to be administered by the United States Information Agency or another agency designated by the President, it will depend on contractor support from such organizations as the National Governors' Association, the National Association of Counties, the United States Conference of Mayors, and the National Academy of Public Administration.

These, and similar organizations, can mobilize the most able and experienced of America's State and local officials to provide training and other technical assistance to their counterparts in the former U.S.S.R. National associations of State and local officials are well-suited to help build democratic regional and local governments and to develop mechanisms to promote inter-governmental and inter-ethnic cooperation. They have experience in carrying out the kind of assistance activities proposed in my amendment. They operate extensive technical training programs for their memberships, and many of them have in the last year been inundated with requests for such technical assistance from the Republics. In discussions I have held with representatives of these groups, they have indicated strong interest in participating in a program similar to that outlined in my legislation.

I urge my colleagues to join me as cosponsors of this legislation, and to support this proposal when I offer it as an amendment to the Freedom Support Act later this week. I ask unanimous consent that a copy of the bill and several letters of endorsement for this proposal be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2886

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 "International Local Government Exchange Act of 1992".

SEC. 2. FINDINGS; POLICY.

The Congress finds that—

(1) the independent states of the former Soviet Union have requested the assistance of American Federal, State, and local officials in making the transition from Communist political systems and centrally planned economies to democratic societies based on local and regional self-government;

(2) the United States is well-positioned, because of its long democratic heritage and traditions, to make a substantial contribution to a transition of the independent states of the former Soviet Union to a more democratic polity and to democratic institutions by building on current technical and talent assistance programs with the newly independent republics of the former Soviet Union;

(3) it is in the immediate economic and national security interests of the United States to ensure the peaceful, orderly, and successful transformation of such states into fully democratic societies;

(4) provision by the United States of the requested assistance would promote development of a democratic polity and would help establish democratic institutions responsive to the needs of the people, particularly in the localities and regions of the independent states of the former Soviet Union;

(5) establishment of democratic local and regional governance that fosters the development of a decentralized market economy and preserves local autonomy and minority rights is essential in order to prevent the destabilization of the independent states of the former Soviet Union by serious economic and political deterioration or by interethnic tensions;

(6) such states have an educated labor force and the capability for productive economies, but they lack many of the basic organizations, institutions, skills, attitudes, and traditions of civil society on which democracy must ultimately rest;

(7) traditional United States foreign assistance programs and mechanisms are inadequate for responding to this new challenge because they are not designed to mobilize the practical expertise of the American people or to target and deliver practical assistance at the grassroots level in the widely divergent societies of the region;

(8) there is great willingness on the part of United States citizens to offer hands-on, person-to-person training, advice, support, and technical assistance to the peoples of the independent states of the former Soviet Union;

(9) State and local government officials in the United States can provide a vast pool of skills, talents, and experience which may be drawn upon to meet these urgent needs for democratic ideas and institutions;

(10) direct grassroots, people-to-people exchanges are the most appropriate means of ensuring that the rapid yet uneven evolution of social and political change will be responsive to the desires of the people of the independent states of the former Soviet Union;

(11) such exchanges can assist in the establishment of democratic regional and local governments where they do not now exist, and can assist existing local and regional governments to develop laws, policies, administrative and judicial procedures, regulatory competence, broad-based tax systems and effective service delivery mechanisms; and

(12) participants in such exchanges can work with national, regional and local officials to encourage intergovernmental cooperation through the establishment of laws, regulatory regimes, institutions, and channels of communication among government officials at all levels.

SEC. 3. STATEMENT OF PURPOSE.

The purpose of this Act is to facilitate the establishment of—

(1) legitimate, democratically elected local and regional governments throughout the independent states of the former Soviet Union that will be able to provide for self-governance and the full range of efficient and equitable public services and management practices expected of such governments in a free society;

(2) cooperative intergovernmental relations between and among the independent states of the former Soviet Union and among its regional and local governments that will provide effectively for such common needs as economic development, intermodal transportation, environmental protection, and joint service provision;

(3) permanent governmental and non-governmental institutions throughout the

independent states of the former Soviet Union that will provide continuing training, research, and development with respect to local and regional governance and intergovernmental cooperation; and

(4) ongoing ties of assistance and friendship between the officials and institutions of State and local governments in the United States and the independent states of the former Soviet Union.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) the term "eligible organization" means—

(A) any organization of elected or appointed State, local, or regional governmental officials determined by the agency administering section 5 to have the capacity to engage in educational and technical assistance exchanges in public administration; or

(B) any private, nonprofit organization having expertise in public administration and experience in providing training or technical assistance; and

(2) the term "independent states of the former Soviet Union" includes the following states that formerly were part of the Soviet Union: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

SEC. 5. AUTHORITY.

(a) IN GENERAL.—(1) The President, acting through such agency as he may designate, is authorized to establish a program for technical assistance in local and regional self-government to the independent states of the former Soviet Union to carry out the purposes of this Act.

(2) Of the amounts authorized to be appropriated, an appropriate amount should be made available for necessary administrative expenses by the implementing agency.

(b) GRANTS.—In providing assistance under subsection (a), the President shall, subject to the availability of appropriations, make grants to eligible organizations to cover the travel and administrative expenses incurred by such organizations in conducting—

(1) an assessment of the need by any independent state of the former Soviet Union for fiscal, legal, and technical expertise at the local and regional level; and

(2) training of local and regional governmental officials in democratic institution-building and public administration.

(c) LIMITATION.—Funding for visits authorized under this section may not exceed 6 months duration.

(d) PRIORITY FOR CERTAIN ELIGIBLE ORGANIZATIONS.—In awarding grants under subsection (b), the President shall give priority to applications for grants from any of the following organizations:

(1) United States Advisory Commission on Intergovernmental Relations (ACIR).

(2) National Governors' Association (NGA).

(3) National Conference of State Legislatures (NCSL).

(4) Council of State Governments (CSG).

(5) National Association of Counties (NACO).

(6) United States Conference of Mayors (USCM).

(7) National League of Cities (NLC).

(8) National Association of Towns and Townships (NATAaT).

(9) International City Management Association (ICMA).

(10) National Academy of Public Administration (NAPA).

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, there

are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated pursuant to subsection (a) are authorized to remain available until expended.

SEC. 7. TERMINATION.

This Act shall terminate 5 years after its date of enactment.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, June 22, 1992.

Hon. PAUL DAVID WELLSTONE,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: On behalf of the National Conference of State Legislatures, I am writing to express our support for your amendment to S. 2532, the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, that will enable state and local government organizations to assist and facilitate the establishment of stable, democratic-elected local and regional governments in the independent states of the former Soviet Union. We strongly endorse the amendment's goals of fostering such institutions through educational and technical assistance exchanges. NCSL greatly appreciates your leadership in recognizing that state and local government officials can contribute greatly to the development of democratic institutions in the Commonwealth of Independent States (CIS).

Exchanges of public officials as envisioned in your amendment supplement a growing interest among emerging democracies in understanding how American state and local governments operate. In fact, the number of official international delegations requesting briefings on state legislative operations has tripled in many state capitols in recent years. NCSL has seen first hand how these new democracies are looking at states as role models in addressing their problems of legislative management, intergovernmental relations, and a lack of legalistic traditions. The independent states of the former Soviet Union must clearly solve these same problems and U.S. public organizations, such as NCSL, have the experience and expertise to provide the technical training so badly needed by the local and subnational governments within the CIS.

NCSL, for example, has considerable experience with international visitors and international exchanges. We also routinely provide for our members specialized training programs regarding a wide range of legislative and management issues. Equally important, NCSL and state legislators are keenly interested in providing whatever assistance the former Soviet Union may require and our organization is committed to organizing a long-term coordinated assistance program. We are convinced that international exchange programs are one of the most inexpensive, yet effective, means of promoting personal contacts, providing technical assistance, and transferring ideas. However, the financial resources NCSL has available for such exchanges are very limited and our ability to respond to requests for assistance from CIS officials has been hampered. Only with the help of the federal government can we operate the type of exchange program that we believe is so urgently needed. Therefore, passage of your amendment is vital to state and local government organizations' ability to bring the ideals of democracy to the former Soviet Union.

Again, thank you for your leadership in this most critical issue. Please contact NCSL if we can ever be of assistance.

Sincerely,

PAUL BUD BURKE,
Senate President, Kansas,
President, NCSL.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, June 22, 1992.

Hon. PAUL DAVID WELLSTONE,
U.S. Senate, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: The U.S. Conference of Mayors is writing in support of a regional and local democracy initiative in the former Soviet Union.

There is a strong need for technical assistance to establish and develop democratically elected regional and local governments in the former Soviet Union, to build professional and responsive leaders and systems to address regional and local public administration, and to foster cooperative intergovernmental relations between and among the national, regional and local governments.

The U.S. Conference of Mayors is one of many national organizations of elected American officials which have been approached again and again to provide technical assistance to the former Soviet Union at the local level.

The U.S. Conference of Mayors has tremendous resources for such an initiative in the over 1,000 mayors represented by The U.S. Conference of Mayors. The Conference is prepared to work with other national organizations to provide a long-term coordinated technical assistance program.

We believe that by working in cooperation with other national organizations of elected American officials and experts on public administration we can provide a much more comprehensive initiative than by working separately. However, we cannot do it alone. We need the expertise and resources of the American government to carry out an effective and successful program.

The U.S. Conference of Mayors strongly supports efforts to incorporate the expertise our mayors have to offer in a consortium such as that provided for in your legislation. We look forward to working with you and the Administration in securing appropriate funding for future efforts to democratize local governments in the former Soviet Union.

We believe that in the area of foreign assistance, this program deserves high priority.

Sincerely,

RAYMOND L. FLYNN,
President,
Mayor of Boston.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, June 22, 1992.

Hon. PAUL D. WELLSTONE,
U.S. Senate, Senate Hart Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: The National Association of Counties (NACo) is writing in support of a regional and local democracy initiative in the former Soviet Union.

There is a strong need for technical assistance to establish and develop democratically elected regional and local governments in the former Soviet Union, to build professional and responsive leaders and systems to address regional and local public administration, and to foster cooperative intergovernmental relations between and among the national, regional and local governments.

NACo is one of many national organizations of elected American officials which have been approached again and again to provide technical assistance to the former Soviet Union at the local level. NACo has tremendous resources for such an initiative in the thousands of local elected officials who make up NACo. NACo is prepared to work with other national organizations to provide a long-term coordinated technical assistance program.

We believe that by working in cooperation with other national organizations of elected American officials and experts on public administration we can provide a much more comprehensive initiative than by working separately. However, we cannot do it alone. We need the expertise and resources of the American government to carry out an effective and successful program.

We believe that in the area of foreign assistance, this program deserves high priority.

LARRY E. NAAKE,
Executive Director.

NATIONAL ACADEMY OF
PUBLIC ADMINISTRATION,
Washington, DC, June 19, 1992.

Hon. PAUL DAVID WELLSTONE,
U.S. Senator, Hart Senate Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: I am writing in response to a request from your office regarding the Academy's interest in the proposed "International Local Government Exchange Act of 1992."

The consortium of organizations identified as priority grant recipients constitute a considerable and substantial force for addressing the basic challenges of governance in the emerging democracies of the former Soviet Union. I have enclosed materials about the National Academy which explain its capacity and commitment to assisting the republics of the former Soviet Union.

Significant social, political and economic advances in the former Soviet Union will entail technical assistance by Western Nations in the training and development of elected officials, appointed officials and civil servants at all levels of government as well as the training of pools of potential personnel in the fields of governance, public management and administration. In order to respond to problems relating to community economic development, there is a need to enlarge the scale of education and training in the form of direct support for activities in the areas of governance and public sector institutional capacity building. The proposed legislation is focused to provide this desperately needed assistance.

The National Academy is frequently called upon by foreign governments to aid them in reforming the basic tasks of governance: diagnosis of public problems, policy formulation and decision making, practical implementation and accountability. Our assistance efforts aim to help foreign governments develop the institutional capacity to carry out the basic tasks of governance, by integrating external organizations (including political parties, media, special interest groups, civic and non-profit organizations, and universities) into the policy process of a democratic government.

Neither democratic governance nor economic reform can be achieved without competent publicly responsive regional and municipal governments. There is little history of decentralized governance in the former republics. Regional and municipal governments were principally administrative ap-

pendages of the central government in Moscow. This prohibited regional and municipal governments from communicating with each other, let alone collectively addressing matters of mutual interest.

The task in providing technical assistance is to help build at every level of government professional, sustainable institutional capacity which can operate within a democratic context. That is what we understand to be the principal aim of the "International Local Government Exchange Act of 1992."

I hope this provides you with the information you need regarding our interest in providing technical assistance to the republics of the former Soviet Union.

Sincerely,

R. SCOTT FOSLER,
President.

THE NATIONAL ACADEMY OF PUBLIC
ADMINISTRATION

The National Academy of Public Administration is a compelling force for renewing the capacity and improving the performance of public institutions in a time of change. The Academy is exceptionally well-qualified to address fundamental challenges associated with our system of governance and its various subsystems. It is uniquely and strategically positioned to facilitate the complex deliberations required to lay out and develop practical solutions for consideration by the U.S. government and those in the CIS.

The Academy's outstanding assets are its: Timely, and noble mission, embodied in its congressional charter—the only such charter granted to an analysis and research organization since 1863—requiring the Academy to respond to requests for assistance from government agencies at all levels and, on its own initiative, to seek ways to improve governance. The Academy's congressional charter provides a motivating responsibility, legitimacy and prestige, and access to leadership and points of action.

Distinguished membership—400 plus Fellows—leaders in the public, private, and non-profit sectors who are chosen by current Fellows through a secret nomination and ballot process based on exemplary and sustained contributions to public service or scholarship at all levels of government and over the full range of policy and management issues facing the nation. The Academy's fellowship includes current and former members of Congress, cabinet members, federal executives, state and local legislators, governors, mayors, local public managers, policy analysts, and university-based political scientists, economists and other scholars. Taken as a whole, the Academy's membership embodies a wide range of talents and backgrounds, including a commitment to professionalism, public values, high respect, and a capacity for renewal.

Strategic, highly visible position at the crossroads of the levels of the federal system, public and private sectors, and major domestic and international policy issues. This position makes it nonpartisan, i.e., disinterested regarding any one perspective or position.

Orientation to action—practical management concerns—and knowledge—the full range of basic, applied, and management-oriented scholarship. The Academy's work is concerned with the intersection between policy and process. It brings to that intersection considerable experience in constructing and reconstructing institutional arrangements and in building, allocating, and reallocating public resources.

Extensive outreach activities, making it a "do tank" as well as a think tank. This in-

volves consultation with government agencies and other organizations, direct links to policy makers and managers, education, and training programs.

Organization, including its institutional structure based on the talents of its 400 members; its standing panels and other ongoing activities on the public service, executive management, the international system, the federal system, and ethics; as well as professional staff who are themselves practitioners and scholars of public administration.

Track record of over 300 projects and other accomplishments, including reports congressional testimony, informal advice, and membership resolutions, all of which are designed to improve government at all levels. Some of the Academy's recent and current projects related to the contemporary challenges of governance are listed in Appendix B.

Ongoing commitment to improving government. The Academy itself is part of the nation's capacity to govern.

In sum, the Academy is a national resource.

Looking forward, this resource reflects a considerable and substantial force for addressing the basic challenges of governance in emerging democracies. The Academy can be a focal point for building the relationships and structures required for the meaningful and focused set of dialogues necessary to ask the appropriate questions and seek answers to them. The Academy has the ability to get the right people together to consider and analyze the issues, design recommendations to address those issues, and to get that knowledge disseminated quickly into channels where it can be acted upon.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 22, 1992.

HON. PAUL DAVID WELLSTONE,
U.S. Senate, Washington, DC.

DEAR SENATOR WELLSTONE: This letter is to express support for your proposed legislation, the International Local Government Exchange Act of 1992. United States Governors increasingly are asked to play a role in assisting emerging democracies around the world, especially in Eastern Europe and the former Soviet Union. I appreciate your efforts to emphasize the need for development of local democratic institutions within the overall U.S. aid package.

Republic, oblast, and city officials are seeking technical expertise in a vast array of areas related to the design and implementation of public policies and programs. States represent the best source of expertise in key areas such as budgeting, taxation, infrastructure development, education, employment and training, public-private partnerships, and intergovernmental relationships and responsibilities. In addition, there is a strongly expressed desire by Russian/CIS private entrepreneurs and businesses to establish contacts with American companies. We believe that public initiatives resulting from states' assistance will provide additional trade opportunities for U.S. companies.

That is why NGA is working with and on behalf of states to develop activities that will link American states and subnational governments within the republics. Background information on state and NGA activities is attached.

We also have demonstrated an interest in working with other national organizations to undertake a more comprehensive technical assistance effort. Obviously, we cannot do it alone. But with guidance and assistance from the federal government, our efforts can

make a significant contribution in shaping the democratic institutions of the newly independent republics. We stand ready to work with you and other members of Congress, as well as the Administration, to proceed on these initiatives.

Sincerely,

RAYMOND C. SCHEPPACH.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, June 2, 1992.
STATES ACTIVE IN THE NEWLY INDEPENDENT
REPUBLICS
SUMMARY

During the past two years, ten Governors have traveled to the former Soviet Union as its breakup has created numerous opportunities for improving trade, political, and cultural relations between states and the newly independent republics. States are undertaking a variety of initiatives to promote closer relations and assist the republics in moving toward democracy and free markets. State activities—a sampling of which follows—have included trade promotion, as well as cultural exchange and humanitarian assistance. Federal legislation is being considered to address military security concerns, and to expand trade assistance and support for democratization efforts.

BACKGROUND

Although the Soviet Union ceased to exist in 1991, the government structures in the independent republics and the relationships between the republics are still emerging. In mid-December 1991, representatives of the Russian Federation, Ukraine, and Belarus approved an agreement that established a Commonwealth of Independent States. The agreement provides for central control over the military and for coordination of economic and foreign policy. Kazakhstan, Kirghizia, Tajikistan, Uzbekistan, Armenia, Azerbaijan, Moldavia, and Turkmenia soon joined. The republic of Georgia has not joined the commonwealth. The Baltic states of Lithuania, Latvia, and Estonia, which established their independence much earlier, have no plans to join.

While there have been initiatives to transfer government assets to private interests and to decontrol prices, shortages of food and medicine have impeded progress. Numerous reforms have been instituted in connection with the republics' interest in attaining membership in the International Monetary Fund and the World Bank.

These financial and tax reforms will allow them to qualify for the organizations' aid and allow for access to programs to help stabilize their currency. However, while the republic governments have attempted to make it easier for foreign businesses to invest, there are still disincentives. For example, Russia recently established a 60-percent tax on all income of any foreign business representatives living and working in the Russian Federation for more than 180 days. Even though progress on market reforms and democratization has been slow, states have become more active in pursuing trade promotion and foreign relations initiatives with the former Soviet Union.

STATE INITIATIVES

States have taken a number of different approaches to developing closer relations with the newly independent republics. Among other efforts, states have sponsored trade missions, targeted the republics for trade promotion efforts, developed cultural programs to foster better relations, and participated in humanitarian assistance programs.

Trade Missions.—Over the last two years, ten Governors have traveled to what is now the former Soviet Union. Many more delegations were led by other state officials. The visits have focused primarily on exploring trade opportunities, although most trips also had non-trade components such as technical assistance or educational exchange agreements.

Focusing on Key Industries.—Some states have targeted specific sectors of trade to promote with newly independent republics. For example, Minnesota, New Jersey, Virginia, and Wisconsin are emphasizing both pollution control and medical equipment sectors. Virginia sees potential for telecommunications firms. Illinois is concentrating on machine tools and metal working, automotive parts, and telecommunications. Kansas has given priority to agricultural products and commodities, transportation services, and grain handling and storage. Georgia is focusing on agriculture and food processing. Oklahoma is concentrating on the oil and gas industry. Indiana sees opportunities for its housing industry.

Formal Relationships.—Some states have targeted specific republics or regions for promoting overall trade. Minnesota has developed ties with Russia, Belarus, and Kazakhstan; Kansas and Wyoming have focused on Russia; Colorado has concentrated on Russia and Uzbekistan; and Idaho is developing a relationship with Kirghizia.

Five states have signed formal sister-state agreements:

Alaska and the Khabarovsk region.
Georgia and the Republic of Georgia.
Illinois and the Russian Federation.
Iowa and the Stavropol region.
Vermont and the Kareli region.

The number of sister-state relationships is expected to grow in the immediate future. In addition to state-level agreements, there is a vast network of sister cities involving all the republics and twenty-seven states, according to Sister Cities International. Many other states—including California, Colorado, Idaho, Indiana, Maryland, New York, and Rhode Island—have entered into other types of specialized agreements. These agreements have initiated cultural exchanges, educational exchanges, technical assistance projects, and governmental exchanges.

A number of states, such as Illinois, Maryland, New Jersey, New York, and Rhode Island, have helped organize and facilitate visits of official and business delegations from the republics. State government officials often play a role in these visits by helping explain the workings of U.S. sub-central government, the democratic process, and the free market system.

Promoting Private Initiative.—States also are helping with private initiatives with the newly independent republics. For example, international trade offices in Michigan and Arkansas are providing assistance and acting as referral agencies for the numerous private trade and cultural program efforts that already exist in their states.

The Russian Winter Campaign is an example of states working with private groups to provide humanitarian assistance to the republics. Arkansas, Georgia, Idaho, Oklahoma, Pennsylvania, Utah, and Wisconsin have participated in this project, which was designed to generate 100 to 150 tons of food and medicine during the winter from each state. An initiative of the non-profit International Foreign Policy Association, the program arranges transportation and assists in the distribution of these supplies to designated cities and institutions. The cam-

paign will continue its efforts until September 1992.

States such as Idaho, Maryland, and Washington are working with the Fund for Democracy and Development, a private nonprofit group that provides logistics support for transportation of food, medicines, and other goods to the commonwealth republics and the Republic of Georgia.

OTHER STATE-RELATED ACTIVITIES

Ten national associations of state and local government officials are exploring a collective initiative that would establish a network of technical assistance activities aimed at helping republic and oblast officials with problems of governance. Such a project might include Governors, mayors, legislators, county executives, and others assisting counterparts in the republics with matters such as planning, budgeting, and management. The project is being developed in cooperation with the U.S. Advisory Commission on Intergovernmental Relations. The initiative resulted from a visit to Moscow in December 1991 of a delegation of federal, state, and local officials to discuss federalism. Missouri Governor John Ashcroft, NGA Chairman was a member of that delegation which met with numerous Russian officials.

Other groups of state and local officials are developing similar projects. For example, state agriculture commissioners and land grant university officials are reviewing a proposal to promote agriculture-based pairings of states and oblasts. These pairings would promote activities ranging from farmer-to-farmer exchanges to agribusiness and food distribution technical assistance. Colorado Governor Roy Romer and Iowa Governor Terry Branstad recently sent out a letter to all Governors explaining the proposal and announcing a conference to consider the proposal in Colorado in July.

FEDERAL ACTION

Congress has held numerous hearings on aid to the region. Earlier this year, the President authorized an emergency airlift effort along with other aid efforts. He also submitted to Congress legislation outlining his proposal for humanitarian assistance and other initiatives. He has called it the Freedom Support Act of 1992 (Freedom for Russia and Emerging Eurasian Democracies and Open Markets). The bill, S. 2532, was introduced by request on April 7th by Sen. Claiborne Pell (D-RI). It would do the following:

Support emergency humanitarian aid;
Facilitate demilitarization and nuclear power safety issues;

Extend the provisions of the Support for East European Democracy (SEED) Act of 1989 to the former Soviet Union;

Expand democratization efforts, including the establishment of "America Houses" to share information about American history, government, and culture;

Extend federal credit guarantees and programs;

Allow waiver of restrictions on imports from the republics and further ease export control restrictions; and

Provide for an expanded American presence in the region through organizations such as the Peace Corps and the Citizens Democracy Corps.

G-7 Plan.—The legislation would implement the U.S. role in the Group of Seven (G-7) industrialized countries' aid initiative. The G-7 plan is a \$24 billion aid packages that would provide \$4.5 billion in International Monetary Fund (IMF) and World Bank aid, \$2.5 billion in debt deferral, \$11 billion in bilateral aid, and \$6 billion for a spe-

cial IMF currency stabilization fund for the ruble.

NGA POLICIES AND ACTIVITIES

The NGA policy on the Soviet Union and Eastern Europe (H-4.6, adopted July 1990) recognizes the profound changes that have taken place. It urges the United States to take a strong role in helping these newly independent republics to democratize and to develop free markets. Toward that end, the policy takes the following positions.

Barriers to trade with the newly independent republics should be removed provided that human rights initiatives are sustained.

The United States should advocate a policy of open lands to the people of the newly independent republics (that is, individuals should have the ability to move about freely within the host country).

The U.S. government should increase U.S. and Foreign Commercial Service efforts to expand trade with the newly independent republics and with Central and Eastern Europe.

States should take steps to promote contact with the newly independent republics and Central and Eastern European countries. States can do this through both trade activities and cultural, business, and educational exchanges. States also should consider providing technical assistance in such areas as environmental protection, health care, energy policy, and government policy development and planning.

NGA has participated in a number of projects to foster interaction between states and the newly independent republics. In April 1991, NGA helped coordinate a visit to the United States by a delegation of cabinet officials and regional Governors from the Russian Federation. In November 1991, Colorado Governor Roy Romer and Delaware Governor Michael Castle led a mission co-sponsored by NGA and the Western Governors' Association. The purpose of the mission was to assess the possibility of a new initiative between states and republics, emphasizing trade development and technical assistance. The delegation visited Moscow and the city of Tashkent in Uzbekistan. During the 1992 NGA Winter Meeting, the Governors met with Ambassador Robert Strauss to explore means by which the Governors could support the transition in the Commonwealth of Independent States to a democratic government and free market economy.

NGA currently is exploring the possibility of establishing an office in Moscow on a trial basis to further the Governor's objectives in promoting trade. The major goal of the project would be to work with state trade programs in helping U.S. businesses establish trade relationships with entities in the republics. The office might also act as a referral for technical assistance efforts between states and republics.

CONCLUSION

States are fostering a variety of economic, cultural, and political connections with the newly independent republics. With the emergence of separate republics and the advent of the Commonwealth of Independent States, these activities are expanding and accelerating. The economic reforms and other liberalizations underway will allow even greater opportunities for state projects in the region.

SAMPLING OF STATE ACTIVITIES WITH THE NEW REPUBLICS

The following are some examples of activities States are pursuing to develop better relations with the newly independent republics.

Alaska.—Because of its proximity to the Russian Far East, Alaska hosts an increasing number of Russian visitors each year. Alaska has many exchange programs with republic regions and organizations. The programs are varied and include exchanges of medical specialists, government employees, scientists, and environmental specialists. Alaska also has concluded a number of cooperative agreements with republic regions on educational, scientific, environmental, and transportation projects. In the area of trade promotion, Alaska is encouraging trade in such sectors as telecommunications, heavy equipment, and transportation. The State also has encouraged joint ventures such as mining, environmental planning and management, and health services.

Arkansas.—The Arkansas university system has several exchange programs. There is a teacher and student exchange program with the Moscow Pedagogical Institute. Also, there is a joint program with the chamber of commerce that allows professors to visit Moscow for two-to-three-week periods to teach business courses.

California.—California reached a memorandum of understanding with the Russian Republic in April 1991. In accordance with the agreement, California is promoting commercial ties through increased trade, including cooperation and assistance in agricultural and industrial production; science and educational exchanges; tours of artistic groups and contacts between leaders in culture and the arts; and cooperative efforts in the areas of tourism and environmental protection. California also is promoting local ties, and there are currently twelve sister-city relationships between California and cities in the newly independent republics. California also has a very active relationship with the republics in the academic sector. The University of California, University of Southern California, Stanford, and others have faculty and student exchange programs, cooperative research efforts, business and economics technical assistance, and athletic exchanges.

Colorado.—Colorado is creating exchange programs and providing technical assistance in areas such as agriculture, education, government, and economic development. In January 1991, Colorado formalized its efforts by signing a Protocol of Cooperation with the Russian Republic, which pledged cooperation and collaboration for projects in business, education, and culture. One such project is the University of Colorado's International Center for Public Administration and Policy in Denver and in Moscow, which was created to provide education and training to assist with the transition to democracy and free markets. Another example is the Governor's Soviet Task Force composed of business and education leaders; the task force was created to counsel the Governor on business and economic issues relating to the newly independent republics. The State also encourages private sector organizations such as the Colorado Soviet Trade Association which is composed of businesses interested in increasing trade with the republics.

Georgia.—Georgia promotes a range of trade and foreign relations initiatives with the former Soviet Union. One aspect of this effort is promotion of exchange linkages and technical assistance projects between Georgia universities and organizations in the newly independent republics. For example, Georgia State University is involved with the Russian republic; the University of Georgia has developed projects with Ukraine and Lithuania; and Fort Valley State College is

working with Uzbekistan. In addition, several universities have been involved in assistance projects and exchanges with Georgia's sister state, the republic of Georgia.

Idaho.—Idaho has formulated a joint statement with the republic of Kirghizia, which is expected to lead to a sister-state agreement. Idaho-Kirghizia projects under consideration include joint venture promotion, personnel and cultural exchanges, and technical assistance projects. University ties already exist: the University of Idaho has cooperative agreements or memoranda of understanding with seven institutions of higher education in the newly independent republics. Also, Idaho potato growers are working with federal groups to donate food for future USDA shipments.

Illinois.—Illinois has a sister-state agreement with the Russian republic. The state works with the Russian Association for Foreign Economic Cooperation for Medium and Small Businesses and the US-USSR Trade and Economic Council to promote business activity with the newly independent republics. The state's International Business division assists delegations from the republics, and received a delegation of four Russian Governors in January. In 1991, the division was successful in facilitating several joint ventures between Illinois and the Commonwealth of Independent States.

Indiana.—In December 1991, Indiana reached an agreement with the Moscow oblast to assist them in democratization and with making a transition to a market economy. The state is working closely with oblast officials to set up technical assistance projects, governmental and academic exchanges, and educational linkages in connection with the agreement. In this effort, Indiana is working with the Indiana-Soviet Trade Consortium, a not-for-profit group of Indiana businesses interested in improving relations with the republics. Under the agreement, there will be two joint Indiana state-Moscow oblast committees with members appointed by the Governor and the chairman of the oblast. The committees will assist with the strategic planning necessary for market and democratic reforms. As part of the agreement, the Moscow oblast will purchase from Indiana companies goods and services that are at least equal to the services Indiana provides through the agreement. A compensation committee will determine the details of the purchases. Indiana has already begun one particular assistance project: they are helping the oblast in defining the oblast-Russian republic relationship by furnishing oblast officials with information on federal-state relationships in the United States and on U.S. state constitutions.

Iowa.—In 1987, Iowa established a sister-state agreement with the Stavropol region in the Russian republic. It was the first such agreement between a state and a region in the former Soviet Union. Since then, Iowa implemented a number of programs to foster business and cultural ties with the republics. Iowa established the International Development Foundation, a public-private organization, in the fall of 1990 to assist the Soviet Union and Eastern Europe in the development of democracies, free markets, and international trade. One of the foundation's projects is an agreement to establish two agribusiness centers in Russia and Ukraine. The purpose of the project is twofold: first, to introduce market-oriented agricultural business practices; and second, to promote long-term trade and commercial ties. The centers will introduce U.S. technology and

agribusiness skills to help improve Russian and Ukrainian food production, processing, and distribution. The program will be conducted by the Iowa State University faculty and by members of the U.S. agribusiness community, who will provide equipment, technology, and technical advice. For their part, Russia and Ukraine will assume domestic costs associated with the center and will administer participation in the program. Also, Iowa is participating in the creation of an electronic network that will provide information about U.S., Russian, and Ukrainian agribusiness firms in order to facilitate commercial contacts and information exchange. Other foundation projects include exchanges of state legislators and the establishment of sister hospitals and other medical community connections.

Maryland.—Maryland concluded agreements of Friendly Partnership and Cooperation with Russia and Lithuania to promote official government connections, promote trade, and educational exchanges. Also, the Maryland/Eastern European People's Program (MEEPP) promotes programs for technical assistance, training, scholarship, and education opportunities between the people of Maryland and the republics. MEEPP is a cooperative effort of the University of Maryland, Johns Hopkins University, the Maryland business community, the not-for-profit sector, and various state agencies. MEEPP projects with the newly independent republics include educational exchanges, an East-West Technology Center at the University of Maryland, technical assistance with environmental projects, cultural exchanges, and the Baltics-Maryland Partnership, which provides a wide variety of assistance to the Baltic states.

New Jersey.—The Governor and the state international trade office have been active in hosting delegations from the newly independent republics. They have hosted groups from Moldavia, Ukraine, Belarus, Lithuania, and Russia. These meetings have led to exchanges on legal affairs, trucking operations, and food packaging/processing technology. A meeting with Ukraine officials resulted in a major dairy and food processing project with a New Jersey commercial refrigeration company.

New York.—New York concluded an International Partnership Program agreement with Lithuania in 1991. Under the program, the state will offer technical assistance in economic restructuring, small business development, trade and investment promotion, science, education, and culture. Initiatives are still in the planning stages, but one aspect of the program has already begun. A Technology Transfer Center was opened and expanded in a Lithuanian college. The center was developed with the assistance of the State University of New York, which will eventually provide training and technical support for international industrial development activities. An exchange program of professors is already underway. Another aspect of the program is technical assistance. New York officials have briefed and provided assistance to Lithuanian officials in the areas of policy development and regulation of finance and banking.

Oklahoma.—In October 1991, Governor David Walters, one of the first U.S. officials to visit the former Soviet Union after the August coup, led a delegation of oil and gas industry leaders on a mission to Moscow, St. Petersburg, and Tbilisi in an effort to gauge economic opportunities for Oklahoma companies. As a result of the trip, several Oklahoma oil and gas companies have reached

agreements with republic enterprises to produce energy resources. Oklahoma also has provided humanitarian assistance to the republics including 120 tons of food and medical supplies as well as sending specialized firefighting equipment to Southeastern Uzbekistan to fight catastrophic oil well fires. Governor Walters played an active role this past winter in encouraging other states to participate in humanitarian assistance efforts. Currently Governor Walters' office is collecting outdated but still safe and effective pharmaceutical products from hospitals and manufacturers in the United States to send to health providers in the republics. The state also is helping private efforts to host republic delegations for educational, cultural, business, humanitarian, and technical assistance purposes. Oklahoma's higher education institutions have been active in providing assistance. Among other projects, Oklahoma City University was the first U.S. university selected to train former Soviet military executives in economic theory and practice through classes and internships with local Oklahoma businesses. The Center for International Trade Development at Oklahoma State University set up one of the few live interactive video-conferences between U.S. citizens and business leaders and decision-makers in Moscow. The University of Tulsa will initiate an MBA program at the Zelenograd Technological Institute for the Fall 1992 semester.

Rhode Island.—Rhode Island's Department of Economic Development signed an agreement with Murmansk, a port city in the Russian republic, to promote trade. The program includes cooperation and exchanges in shipping, industry and manufacturing, and science and technology. The Department of Economic Development has hosted several trade delegations from the Russian Republic interested in promoting ties with Rhode Island businesses and improving trade between the ports of Providence and Murmansk.

Wisconsin.—Wisconsin expects that there will be numerous trade opportunities in sectors in which their state is very competitive: dairy products/processing, environmental regulations and monitoring systems, medical equipment, and factory automation. To promote cultural and educational contacts, Wisconsin is encouraging sister-city relationships; five already have been established.

This information was collected as part of an NGA survey of states conducted December 1991 through May 1992. NGA gratefully acknowledges the effort and cooperation of those states who responded.

THE COUNCIL OF
STATE GOVERNMENTS, LEXINGTON, KY,
June 23, 1992.

Hon. PAUL D. WELLSTONE,
U.S. Senate, Senate Hart Office Building,
Washington, DC.

DEAR SENATOR WELLSTONE: The Council of State Governments is writing in support of your efforts to aid in the development of local and regional public administration programs in the former Soviet Union.

The need for such programs is great. Strong local and regional democratic government institutions are necessary to ensure the stability of emerging democracies around the world. Technical assistance from the United States in this area, combined with general and specific assistance in other areas, is necessary to smooth the transition of the states of the former Soviet Union from authoritarianism to democracy.

The Council of State Governments (CSG) is frequently approached to lend our expertise

to the development and implementation of such programs. CSG has vast resources and experience at its disposal and is prepared to work in coordination with other national organizations to implement and maintain a long-term technical assistance program in the former Soviet Union.

While CSG and other national organizations possess broad expertise and experience, we cannot go it alone. Guidance and assistance from the federal government will be necessary for a successful democratic institution building program. CSG remains willing and eager to work with you and other Members of Congress, the administration and other national organizations as this important undertaking moves forward.

Sincerely,

DANIEL M. SPRAGUE,
Executive Director.●

By Mr. EXON:

S. 2888. A bill to amend title XVIII of the Social Security Act to provide for guidelines clarifying the reclassification of one rural area to another rural area for purposes of determining reimbursement rates to hospitals under Medicare; to the Committee on Finance.

ADJACENCY REQUIREMENT FOR RURAL HOSPITALS

Mr. EXON. Mr. President, today, I am introducing legislation to eliminate the adjacency requirements for rural hospitals wishing to reclassify to another rural area.

Currently the law requires that hospitals must be within 35 miles and in an adjacent county before they can reclassify to a metropolitan statistical area or another rural area. My bill retains the 35-mile restriction, but does not require that the hospitals be in neighboring counties to reclassify.

The changes in hospital costs do not stop at county lines. Eliminating the adjacency requirements can result in increasing a hospital's diagnostic related group payments. This is significant, especially in rural areas where they are fighting for every dollar and competing with neighboring hospitals for personnel.

In Nebraska, hospitals which are within 35 miles of Kansas, Colorado, South Dakota, Iowa, Missouri, or Wyoming have to compete for personnel because Nebraska's reimbursement rates are lower. For people living in rural areas, 35 miles is not a great distance to drive to get higher pay. Rural hospitals have enough strikes against them without competing on an unlevel playing field with other rural hospitals in neighboring counties.

While this bill is no panacea for rural hospitals, it allows a few rural hospitals to be reimbursed more equitably for the same services with their close neighbors.

Mr. President, I ask unanimous consent that the 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. 2888

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

SECTION 1. CLARIFICATION OF MEDICARE GUIDELINES ON RECLASSIFYING ONE RURAL AREA TO ANOTHER RURAL AREA.

(a) IN GENERAL.—Section 1886(d)(10) of the Social Security Act (42 U.S.C. 1395ww(d)(10)) is amended by adding at the end the following new subparagraph:

“(G) In promulgating or enforcing the guidelines or regulations under this paragraph, the Secretary shall provide, in determining whether a county in which a hospital is located should be reclassified from one rural area to another rural area under this paragraph, that the borders of such rural areas need not be contiguous as long as the rural areas are within 35 miles of proximity to one another.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to reclassifications occurring on or after October 1, 1992.

By Mr. BOREN:

S. 2889. A bill to repeal section 5505 of title 38, United States Code; to the Committee on Veterans' Affairs.

REPEAL OF LIMITATION ON PAYMENT OF COMPENSATION

● Mr. BOREN. Mr. President, I am introducing a bill today to remedy a grave injustice caused by the Omnibus Budget Reconciliation Act of 1990. I supported the bill because I believe that a balanced budget must be a top priority for Congress and the administration. I also believe we can achieve that objective through reasonable and humane reductions and reallocations of spending. But one provision of the 1990 budget agreement was neither reasonable nor humane.

The Veterans' Administration was directed to discontinue benefits to any incompetent veteran who has an estate of \$25,000. When the estate goes below \$10,000, the payments may start again.

We seem unwilling or unable to contain cost of living increases to Social Security recipients, Federal and military retirees, but we stop benefits to those veterans who have been determined incapable of supporting their families and conducting their own affairs.

In February of this year, I was pleased to learn that a Federal district court had granted a preliminary injunction in a class action in which the Disabled American Veterans challenged the constitutionality of this measure. Now I find that the U.S. Court of Appeals has vacated the injunction and it will require legislation to remove this ban on benefits to veterans who cannot fight their own battles and frequently cannot because they were fighting a battle for us.

The only excuse I have heard for including this provision is that apparently there has been some indication of misuse of these funds by guardians or fiduciaries. Mr. President, I think it would be possible to uncover some de-

gree of waste, fraud and abuse in most Federal programs. At the same time, I am very sure that we would also agree that dismantling these programs is not the answer. I venture to say that for every abuse of this program, there have been hundreds of veterans and their families unfairly impacted because of the cessation of these payments.

As soon as the payments to incompetent veterans stopped, I was contacted by a few Oklahomans whose stories need to be heard and are, I suspect, quite typical. For instance, one incompetent Oklahoma veteran's condition has been unchanged since World War II when he was injured in a parachuting accident during a mission. His sister brought him home from an institution and started paying for his needs and banking the VA benefits so there would be money to take care of her brother after she died. Another Oklahoma father brought his son, who was injured during the Vietnam era, home for the same reason. Yes, those estates are over \$25,000 but were giving caring family members some peace of mind.

Mr. President, our annual deficits are an estimated \$400 billion a year. We will borrow 25 cents of every dollar we spend next year. The fiscal year 1993 interest and deposit insurance requests total more than the Defense budget request. We may save \$125 million a year from those of the 13,500 incompetent veterans whose estates are more than \$25,000. Were they selected because they cannot fight back? All the payments to individuals are more than 40 percent of the total budget, yet we ask these few, unfortunate veterans and their families to sacrifice. In my view, it says that the Congress and the administration only has the courage to find savings from Americans who cannot defend themselves. I welcome the cosponsorship of my colleagues and I hope for immediate action to right this wrong.●

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S. 2890. A bill to provide for the establishment of the Civil Rights in Education: Brown versus Board of Education National Historic Site in the State of Kansas, and for other purposes; to the Committee on Energy and Natural Resources.

CIVIL RIGHTS IN EDUCATION: BROWN VERSUS BOARD OF EDUCATION NATIONAL HISTORIC SITE

Mr. DOLE. Mr. President, today I am introducing a bill to preserve one of the two schools involved in the Brown versus Board of Education case—the landmark U.S. Supreme Court decision that brought an end to legal segregation in public education. Joining me to sponsor the Civil Rights in Education National Historic Act of 1992 is my distinguished colleague from Kansas, Senator KASSEBAUM. In addition, a companion bill will soon be introduced in the House.

THE BROWN VERSUS BOARD CASE

In 1951, Oliver Brown and 12 other parents attempted to enroll their children in what was then the all-white Sumner Elementary School. When Linda Brown and the other children were denied admission and told to attend the all-black school, Monroe Elementary, Lawyers John and Charles Scott initiated the legal action that became one of the most important civil rights cases in American history: Brown versus Board of Education.

All of those who played a role in advancing the case wanted a nation where schoolchildren—and all people—were not divided by race. They wanted a nation that built bridges and not walls. The plaintiffs and their lawyers believed that the Constitution provided equal access to education, and the Supreme Court confirmed their belief when in 1954 the decision was sent down declaring segregation illegal.

WHY THE STUDY WAS REQUESTED

Over the years since the Brown decision, the two schools have met very different fates. The Sumner school continues to be used by the city of Topeka as a school and it remains in good condition. The Monroe School, unfortunately, has fallen on hard times since its sale to a developer. At one point, there was even talk of tearing it down.

After hearing of these plans, Cheryl Brown-Henderson, president of the Brown Foundation, contacted the Kansas delegation to ask our help in protecting the school. As a first step, the delegation asked the Secretary of Interior to designate the Monroe School a national historic landmark. The Sumner School had already received this designation several years earlier, so the application for the Monroe School was readily approved by Secretary Lujan.

The Kansas congressional delegation then requested that the National Park Service research the feasibility of preserving the Monroe School as an interpretive center for the landmark Brown versus Board of Education case. Our goal was not only to preserve the structure, but to make sure the important story of the Brown case would not be lost to future generations.

THE FEASIBILITY STUDY

The Park Service thoroughly examined the impact of the case on American history, the interpretation of the site, and the full range of management alternatives. The study team also looked at a number of related properties and held a public meeting to gather the community's viewpoints.

After 2 years of research, the Park Service concluded that both the Monroe School and the Sumner School are of national significance. The Park Service states, "the location of both schools in Topeka and the quality of education they provided to Linda Brown and the other plaintiffs in the case, were material to the finding of

the Supreme Court in the Brown decision." And furthermore that, "the Sumner Elementary School and the Monroe Elementary School symbolize both the harsh reality of discrimination permitted by the Plessy versus Ferguson decision in 1886 and the promise of equality embodied in the 14th amendment to the constitution that was realized after 1954."

In addition, the property was found to be of sufficient size and configuration to afford adequate resource protection and provide appropriate space for facilities. The park service believes the site is both suitable and feasible for development as a national historic site.

MANAGEMENT ALTERNATIVES

The study offered four management alternatives: no action, national historic site status, management of the site by the Brown Foundation, or management by some other private group.

After reviewing the study and speaking with the community, I believe the best way to preserve the school and offer a thorough interpretation of the case is to manage the Monroe School as a national historic site.

According to the feasibility study, the park service has no other site in its system tied to "constitutional law" of the same magnitude as the Monroe School. In my opinion, it is important to preserve the school in order to remember and learn from our Nation's sad history of segregation.

CONCLUSION

I recently attended the dedication of the Monroe School as a national historic landmark and was touched by the outpouring of interest and support from the community. In 1954, Kansans were deeply involved in the case—in fact, the language that the Supreme Court used to discuss the effects of segregation was drafted by the First District Court of Kansas. The large turnout for the landmark dedication ceremony demonstrates the people in my State's strong ties to this case and their support for representation of the school.

I feel strongly that the lessons from the Brown versus Board of Education case should never be forgotten and I look forward to the day when the Monroe School will once again be a place of learning.

Mr. President, I ask unanimous consent that the 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. 2890

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 "Civil Rights in Education: Brown versus Board of Education National Historic Site Act of 1992."

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Civil Rights in Education: Brown versus Board National Historic Site as established in Section 4.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) The Supreme Court, in 1954, ruled that the earlier 1896 Supreme Court decision in Plessy versus Ferguson that permitted segregation of races in elementary schools violated the fourteenth amendment to the U.S. Constitution, which guarantees all citizens equal protection under the law.

(2) In the 1954 proceedings, Oliver Brown and twelve other plaintiffs successfully challenged an 1879 Kansas law that had been patterned after the law in question in Plessy versus Ferguson after the Topeka, Kansas, Board of Education refused to enroll Mr. Brown's daughter, Linda.

(3) Sumner Elementary, the all-white school that refused to enroll Linda Brown, and Monroe Elementary, the segregated school she was forced to attend, have subsequently been designated National Historic Landmarks in recognition of their national significance.

(4) Sumner Elementary, an active school, is administered by the Topeka Board of Education; Monroe Elementary, closed in 1975 due to declining enrollment, is privately owned and stands vacant.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the places that contributed materially to the landmark U.S. Supreme Court decision that brought an end to segregation in public education; and

(2) to interpret the integral role of the Brown v. Board of Education case in the civil rights movement.

(3) to assist in the preservation and interpretation of related resources within the city of Topeka that further the understanding of the civil rights movement.

SEC. 4. ESTABLISHMENT OF THE CIVIL RIGHTS IN EDUCATION: BROWN V. BOARD OF EDUCATION NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is hereby established as a unit of the National Park System the Civil Rights in Education: Brown v. Board of Education National Historic Site in the State of Kansas.

(b) DESCRIPTION.—The historic site shall consist of the Monroe Elementary School site in the City of Topeka, Shawnee County, Kansas, as generally depicted on a map entitled "Civil Rights in Education: Brown v. Board of Education National Historic Site," numbered Appendix A and dated June 1992. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. PROPERTY ACQUISITION.

The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds the real property described in section 4(b). Any property owned by the States of Kansas or any political subdivision thereof may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site. Provided, however, the Secretary may not acquire such personal property without the consent of the owner.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with

this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666).

(b) **COOPERATIVE AGREEMENTS.**—The Secretary is authorized to enter into cooperative agreements with private as well as public agencies, organizations, and institutions in furtherance of the purposes of this Act.

(c) **GENERAL MANAGEMENT PLAN.**—Within 2 complete fiscal years after funds are made available, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$1.25 million to carry out the purposes of this Act including land acquisition and initial development.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleague from Kansas in cosponsoring the Civil Rights in Education: Brown versus Board of Education National Historic Site Act.

Kansans know well the story of Linda Brown and her struggle in the early 1950's to attend Sumner Elementary School, the all-white school located three blocks from her parents' home. Denied admission to Sumner solely because she was black, she was forced to make the daily 24-block trek from her home in central Topeka to Monroe Elementary, the city's nearest black school.

Today, these facts seem reprehensible. But, it took a group of angry and determined parents, including Linda Brown's, to say the system was wrong. They went to court believing that separate education facilities for blacks and whites were inherently unequal; and in 1954, they convinced the entire United States Supreme Court.

The case, Brown versus Board of Education of Topeka, was a landmark in our country's civil rights movement, and it began because a Topeka school girl was not allowed to enroll in one school and forced to attend another.

The legislation we introduce today will designate the Monroe School, the all-black school attended by Linda Brown, as a National Historic Site. It will enable the National Park Service to preserve this building and use it to put into context the impact this decision has had on the civil rights movement and black history. No other site in the National Park System commemorates this important historic theme.

Mr. President, creation of the Civil Rights in Education National Historic Site will be an important reminder of the inequalities that existed in the separate but equal school systems prior to 1954. In designating the Monroe School as a national historic site, we will also honor those who played key roles in the Supreme Court's Brown versus Board of Education decision. They had

the courage to step forward and correct inequity. In doing so, they not only helped create a fairer educational system but a basic principle of justice.

By Mr. DOLE (for himself, Mr. BOND, Mr. GARN, Mr. GRASSLEY, and Mr. McCAIN):

S. 2891. A bill to authorize the Administrator of the Environmental Protection Agency to establish a program to provide career training through the hazardous substance research center program of the Environmental Protection Agency to qualified military personnel and qualified Department of Energy personnel to enable such individuals to acquire proficiency in hazardous and radioactive waste management, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL SCIENCE EDUCATION ACT

Mr. DOLE. Mr. President, I am pleased to introduce the environmental science education bill.

The purpose of this legislation is to prepare men and women for the task of cleaning up our Nation's environmental problems. It is not a cure-all to the problem, but it is a positive step forward. By establishing programs in universities throughout the Nation in the environmental sciences today, we can ensure that a highly trained cadre of environmental professionals will be on the job in the shortest possible time—and time is the thing that we are running out of.

The environmental cleanup of our Nation is a complex and difficult task that will take decades to complete. Adding to the environmental problems are the radioactive sites that must be made safe. In my view, these are problems that we should confront now, or we will have to pay for later.

One of the major obstacles in the cleanup problem is that we do not have enough people trained in the environmental sciences. Federal and State agencies have determined that there is a serious shortfall of scientists, engineers, and technicians in the environmental disciplines. This shortfall of professionals is also a problem in the private sector. Technical talent in the design and implementation of environmental concerns hinders the cleanup process and the construction of new environmentally safe facilities.

This bill will harness the prior training of the men and women within the Departments of Defense and Energy that have prior hands-on training in environmental problems and provide them with the academic education necessary to become experts in the field. The environmental science education programs would be established in the current EPA university hazardous research centers. This consortium of universities spans the Nation and allows the opportunity to use the wealth of information and expertise of informa-

tion and expertise of the research centers.

Mr. President, environmental safety is a national priority. We can continue to talk about it, or spend more money on litigating it, or we can act now. In my view, the environmental science education bill is a positive step toward solving the problem, and ensuring that we will hand over to future generations a safe and environmentally healthy nation.

Mr. President, I ask unanimous consent that the 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. 2891

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

SECTION 1. DEFINITIONS.

For the purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "hazardous substance research centers" means the hazardous substances research centers described in section 311(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(d)). Such term shall include the Hazardous Substance Research Center for Federal Regions VII and VIII, located at Kansas State University in Manhattan, Kansas, the Northeast Hazardous Substance Research Center located at the New Jersey Institute of Technology, the Great Lakes and Mid-Atlantic Hazardous Substance Research Center located at the University of Michigan, the Hazardous Substance Research Center of the South and Southwest located at Louisiana State University, and the Western Region Hazardous Substance Research Center located at Stanford University.

(3) The term "hazardous waste" means—

(A) waste listed as hazardous waste pursuant to subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

(B) radioactive waste; and

(C) mixed waste.

(4) The term "mixed waste" means waste that contains a mixture of waste described in subparagraphs (A) and (B) of paragraph (3).

(5) The term "qualified individuals" means qualified military personnel and qualified Department of Energy personnel.

(6) The term "qualified Department of Energy personnel" means individuals who, during the 5-year period preceding the date of the enactment of this Act, have been employed by the Department of Energy and have been involved in the production of nuclear weapons, and whose employment at the Department of Energy during such 5-year period was scheduled for termination as a result of a significant reduction or modification in the programs or projects of the Department of Energy. Such term shall not include any employee who terminates employment by taking early retirement or who otherwise voluntarily terminates employment.

(7) The term "qualified military personnel" means members and former members of the Armed Forces of the United States who have training in site remediation, site characterization, waste management, waste reduction, recycling, engineering, or positions related to environmental engineering or

basic sciences (including training for management positions). Such term shall not include any former member of the Armed Forces whose service in the Armed Forces was terminated by dismissal (in the case of a former officer) or by discharge with a dishonorable discharge or a bad conduct discharge (in the case of a former enlisted member).

(8) The term "radioactive waste" means solid, liquid, or gaseous material that contains radionuclides regulated under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) of negligible economic value (considering the cost of recovery).

SEC. 2. EDUCATION AND TRAINING PROGRAM.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—

(A) IN GENERAL.—Not later than 3 months after the date of the enactment of this Act, the Administrator, in consultation with the Secretaries of Energy and Defense, shall establish an education and training program for qualified individuals to enable such individuals to acquire career training in environmental engineering or environmental sciences in fields related to hazardous waste management and cleanup.

(B) DEVELOPMENT OF ACADEMIC PROGRAM.—In carrying out the program, the Administrator, in consultation with the Secretaries of Energy and Defense, shall develop and implement an academic program for qualified individuals at institutions of higher education at both undergraduate and graduate levels, and which may lead to the awarding of an academic degree or a certification that is supplemental to an academic degree.

(2) PROGRAM ACTIVITIES.—

(A) IN GENERAL.—The program established pursuant to paragraph (1) may include educational activities and training related to—

- (i) site remediation;
- (ii) site characterization;
- (iii) hazardous waste management (including such specialized activities and training relating specifically to radioactive waste as the Administrator determines to be appropriate);
- (iv) hazardous waste reduction (including such specialized activities and training relating specifically to radioactive waste as the Administrator determines to be appropriate);
- (v) recycling;
- (vi) process and materials engineering;
- (vii) training for positions related to environmental engineering or environmental sciences (including training for management positions); and
- (viii) environmental engineering, with respect to the construction of facilities to address the items described in clauses (i) through (vii).

(B) EDUCATIONAL ACTIVITIES.—The program established pursuant to paragraph (1) shall include educational activities designed for personnel participating in a program to achieve specialization in the following fields:

- (i) Earth sciences.
- (ii) Chemistry.
- (iii) Environmental engineering.
- (iv) Statistics.
- (v) Toxicology.
- (vi) Industrial hygiene.
- (vii) Health physics.
- (viii) Education management.
- (ix) Any other field that the Administrator determines to be appropriate.

(b) GRANT PROGRAM.—

(1) IN GENERAL.—From the amounts made available under subsection (c), the Administrator shall award grants to the hazardous substance research centers to pay the Federal share of carrying out the development

and implementation of the academic program described in subsection (a).

(2) GRANT AWARDS.—The Federal share of each grant awarded under this subsection shall be 100 percent.

(c) FUNDING.—

(1) ENVIRONMENTAL PROTECTION AGENCY.—

(A) IN GENERAL.—Subject to the limitation described in subparagraph (B), 50 percent of the cost of carrying out this section shall be funded from amounts made available for fiscal year 1993 to the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(B) LIMITATION.—The limitation described in this subparagraph is that not more than 1 percent of the amounts made available for fiscal year 1993 to the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) may be used to carry out this section.

(2) DEPARTMENT OF DEFENSE.—

(A) IN GENERAL.—Subject to the limitation described in subparagraph (B), 25 percent of the cost of carrying out this section shall be funded from amounts appropriated for fiscal year 1993 to the Defense Environmental Restoration Account.

(B) LIMITATION.—The limitation described in this subparagraph is that not more than 1 percent of the amounts appropriated for fiscal year 1993 to the Defense Environmental Restoration Account may be used to carry out this section.

(C) TRANSFER.—The Secretary of Defense shall transfer an amount determined in accordance with subparagraphs (A) and (B) to the Environmental Protection Agency, pursuant to the authority granted the Secretary under section 2703 of title 10, United States Code.

(3) DEPARTMENT OF ENERGY.—

(A) IN GENERAL.—Subject to the limitation described in subparagraph (B), 25 percent of the cost of carrying out this section shall be funded from amounts appropriated for fiscal year 1993 to the Department of Energy for the purpose of environmental cleanup.

(B) LIMITATION.—The limitation described in this subparagraph is that not more than 1 percent of the amounts appropriated for fiscal year 1993 to the Department of Energy may be used to carry out this section.

(C) TRANSFER.—The Secretary of Energy shall transfer an amount determined in accordance with subparagraphs (A) and (B) to the Environmental Protection Agency.

By Mr. PELL:

S.J. Res. 322. Joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of Office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO COMMENCEMENT OF THE TERMS OF THE OFFICE OF PRESIDENT, VICE PRESIDENT, AND MEMBERS OF CONGRESS

Mr. PELL. Mr. President, today I am introducing a joint resolution to amend the Constitution to advance the date for the inauguration of the President. Currently, the inauguration date is January 20, a date set by the 20th amendment to the Constitution in 1933. My resolution would advance the inauguration date to the 10th of December.

The reasons for my pursuing this proposal are straightforward: The time be-

tween the election of the President and his or her assumption of office is simply too long, entirely unnecessary, and potentially dangerous and destabilizing. By taking this simple step, we can avoid the potential pitfalls that encumber a prolonged transition period within the executive branch without compromising the means by which the transfer of power occurs in our country in any way.

In looking at whether or not the current Presidential inauguration date should be retained, it is useful to look at the history of its setting. Since the adoption of the Constitution, there have been two different dates set for the inauguration of the President: March 4 and January 20. The original March 4 date was set as a result of that day happening to be "the first Wednesday in March" following the adoption by the Continental Congress in 1788 of an act commencing the proceeding of the Government of the United States under the newly ratified Constitution.

The inaugural date remained on March 4, until 1933 when, following ratification of the 20th amendment to the Constitution, the date was moved from March 4 to January 20. The motivation behind changing the date then was largely the same as the motivation for my proposing the change now: There was no advantage and potentially many problems with a delayed inauguration and advances in vote-counting technology and transportation had rendered unnecessary the long interim between November and March.

Today, further technological advances enable election results to be determined within hours of the closing of polling stations and travel to the Nation's Capital is, at most, a 2-day affair from the most distant parts of our country. Accordingly, the potential for updating our Presidential transition process by advancing the inaugural date, and thereby reducing the potential risks inherent if such a process is protracted, is not limited by technological capability.

What are the potential risks of a delayed inauguration and what advantages would result from the establishment of an earlier date? First, one of the chief risks is the potential for confusion by both domestic and foreign governments over whom appropriately speaks for the Federal Government of the United States during the current 2½-month hiatus between our Presidential election and inauguration. Currently, this interim is nothing but a near-paralysis of government in both domestic and foreign affairs. In domestic affairs, policy decisions or the implementation of programs which may be crucial to the well-being of the country are either on hold during this period or are rushed into place against the desires of the newly elected administration. Similarly, foreign govern-

ments generally defer dealing with outgoing administrations or, even worse, hasten to make arrangements that a newly enfranchised President might not countenance. There is no reason to run these risks because of an outdated determination of the Presidential inauguration date.

Second, another compelling reason for advancing the inaugural date is that the earlier date would permit the incoming President time to submit to Congress his or her own budget for the following fiscal year instead of submitting revisions and amendments to a budget prepared by the outgoing administration. It makes little sense that we have this built-in duplication of effort and expense. In addition, an earlier inaugural date would provide a President with a much better opportunity to seek revisions in the budget for the current fiscal year, thereby providing the chance for the quicker transition to the policies upon which the incoming President was elected to office.

Third, because of the length of time between election day and the beginning of the new Presidential and congressional terms, so-called lame-duck sessions occur during which legislators vote on and shape legislation even though they have either chosen not to run for reelection or were just defeated at the polls for another term. Likewise, executive branch agencies and officials take actions which will have an effect far beyond the time when the outgoing administration leaves office. These lame-duck sessions are dangerous to the democratic process and an unnecessary opportunity for mischief within our system of government.

Finally, I believe the American people, having gone through a Presidential selection process that now extends for months, if not years, at a time, want to see their elected choice in office and implementing his or her proposed policies as soon as possible. There is no reason for the length of delay that we currently have between the election of our President and his or her assumption of office.

My joint resolution is quite simple. It proposes moving the inaugural date for the President from January 20 to December 10. To accomplish this, it is necessary to move the commencement of the terms of Members of Congress as well, as the House of Representatives plays a role in verifying the results of the electoral college and indeed may choose the President should a single candidate not have a majority of electoral votes. Therefore, my resolution would move the date for the commencement of congressional terms from January 3 to December 1. This would allow ample time for the members of the electoral college to meet and vote following the election and for the House of Representatives to carry out their role in the Presidential selection process.

My proposal for advancing the inauguration is not new. I first introduced similar legislation in 1981 and hearings were held on this issue in 1984. While the hearing record shows that testimony was largely in favor of moving the inaugural date, the proposal was never presented to the full Senate. I believe that the time is appropriate for consideration of this legislation once again given the heightened scrutiny afforded the Presidential selection process during this election year.

Indeed, this year's Presidential election looks as if it will be atypical in the sense that there is the very real possibility that a single candidate may not emerge from election day with the necessary electoral votes required to win the Presidency. I believe that the advancement of the inaugural date would be especially beneficial in such a scenario. Not only would the confusion over whom could authoritatively speak for the National Government be greater than normal, but the current 2½ month interval would provide enormous and perhaps irresistible potential for mischief and closed-door negotiations in the courting and lobbying of votes from the Members of the House of Representatives. A shorter transition period would reduce the opportunity in such a situation for the undesirable result of a President assuming power as the result of insider dealmaking.

Indeed, the unusual dynamics of this year's Presidential election has sparked renewed debate over other aspects of the process by which we choose our Chief Executive. Some have called for moving election day to a Saturday in an effort to increase voter participation and others have called for an abolishment of the current electoral college system and replacing it with a modified version of the electoral college or a direct popular vote. My resolution does not address these issues which are complex and steeped in politics. Rather, it would make a simple, straightforward, commonsense change in the Presidential transition process; one that would improve the system with few or no drawbacks. I sincerely hope that the Senate will give its full consideration to this joint resolution.

By Mr. SIMON:

S.J. Res. 323. Joint resolution designating October 30, 1992, as "Refugee Day"; to the Committee on the Judiciary.

REFUGEE DAY

• Mr. SIMON. Mr. President, I rise today to introduce a joint resolution to designate October 30, 1992, as "National Refugee Day." The United States has consistently been a leader in the world community to expand efforts to help the needy population of refugees. Furthermore, refugees and immigrants who have come to the United States have been great assets to the Nation.

The resolution I introduce today honors the courage and determination of refugees throughout the world and their contributions to this society.

The current global climate requires that the United States continue to be a leader in refugee affairs. In the past decade, the plight of refugees worldwide has been worsening as the world refugee population has more than doubled, from 7.3 million to 16 million. The fall of the Soviet Union and the rise of new states present new challenges as well. The aftermath of the Persian Gulf war also contributes to the increase in the number of refugees worldwide. One-third of the refugee population is found in Africa where the host countries have the weakest infrastructure and are the least able to sustain such large numbers of destitute people in flight. At no time has strong leadership by the United States been more necessary.

The different cultural backgrounds that others bring to our shores provide an opportunity for cultural enrichment. We are a nation founded on the dreams and toils of immigrants, and immigrants continue to add to the vitality and diversity of America. Our Nation has served as a beacon to those who flee persecution, and it must remain so.

As a nation of immigrants, we possess a deep understanding of and sympathy for the plight of the 16 million refugees in the world. Obviously, we cannot admit them all, but we must continue our historic commitment to resettlement and regional assistance. We must not only assist those fleeing tyranny and persecution, but we must also work to overcome these conditions. This resolution commemorates the continuing struggles of refugees and the need for active leadership by the United States. I am pleased to sponsor this joint resolution, at the request of the Department of State, to set aside this one day, October 30, to honor the contributions that refugees make every day to America. •

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 1372

At the request of Mr. GORE, the names of the Senator from Virginia

[Mr. WARNER] and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors 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. 1451

At the request of Mr. BIDEN, the names of the Senator from Colorado [Mr. BROWN] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 2104

At the request of Mr. GRASSLEY, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2134

At the request of Mr. NUNN, the names of the Senator from Hawaii [Mr. AKAKA], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Montana [Mr. BURNS], the Senator from North Dakota [Mr. BURDICK], the Senator from Nevada [Mr. BRYAN], the Senator from Illinois [Mr. DIXON], the Senator from Ohio [Mr. GLENN], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2134, a bill to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee.

S. 2244

At the request of Mr. THURMOND, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Maine [Mr. COHEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. MCCAIN], the Senator from Florida [Mr. GRAHAM], the Senator from Vermont [Mr. JEFFORDS], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Kansas [Mr. DOLE] were added as cosponsors of S. 2244, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 2321

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2321, a bill to increase the authorizations for the War in the Pacific National Historical Park, Guam, and the American Memorial Park, Saipan, and for other purposes.

S. 2387

At the request of Mr. SPECTER, his name was added as a cosponsor of S.

2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start Programs, to expand the Job Corps Program, and for other purposes.

S. 2389

At the request of Mr. BRADLEY, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2389, a bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate.

S. 2553

At the request of Mr. INOUE, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 2553, a bill to amend the Civil Liberties Act of 1988 to increase the authorization for the trust fund under the act, and for other purposes.

S. 2667

At the request of Mr. HEFLIN, the names of the Senator from California [Mr. SEYMOUR], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 2667, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use.

S. 2773

At the request of Mr. DANFORTH, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 2773, a bill to amend the Internal Revenue Code of 1986 to extend certain expiring tax provisions, and for other purposes.

S. 2777

At the request of Mr. BRADLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 2777, a bill to finance an educational exchange program with the independent states of the former Soviet Union and the Baltic States, to authorize the admission to the United States of certain scientists of the former Soviet Union and Baltic States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes.

S. 2839

At the request of Mr. SHELBY, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2839, a bill to prohibit the transfer under foreign assistance or military sales programs of construction or fire equipment from Department of Defense stocks.

SENATE JOINT RESOLUTION 241

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from South Carolina [Mr. THURMOND], the Senator from Ohio [Mr. METZENBAUM], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Hawaii [Mr. INOUE], the Senator from Tennessee [Mr. GORE], the Senator

from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. LEVIN], the Senator from Utah [Mr. GARN], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 241, designating October 1992 as "National Domestic Violence Awareness Month."

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the names of the Senator from Connecticut [Mr. DODD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. NUNN], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 270

At the request of Mr. THURMOND, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of Senate Joint Resolution 270, a joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day."

SENATE JOINT RESOLUTION 281

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Joint Resolution 281, a joint resolution designating the week of September 14 through September 20, 1992, as "National Small Independent Telephone Company Week."

SENATE JOINT RESOLUTION 287

At the request of Mr. SIMON, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Michigan [Mr. RIEGLE], the Senator from Maryland [Mr. SARBANES], the Senator from Idaho [Mr. SYMMS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Iowa [Mr. GRASSLEY], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of Senate Joint Resolution 287, a joint resolution to designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week."

SENATE JOINT RESOLUTION 301

At the request of Mr. LAUTENBERG, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 301, a joint resolution designating July 2, 1992, as "National Literacy Day."

SENATE JOINT RESOLUTION 303

At the request of Mr. PELL, the name of the Senator from Montana [Mr. BAUCUS] was added as a cosponsor of Senate Joint Resolution 303, a joint resolution to designate October 1992 as "Na-

tional Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 312

At the request of Mr. GORTON, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Joint Resolution 312, a joint resolution proposing an amendment to the Constitution to provide for a runoff election for the offices of the President and Vice President of the United States if no candidate receives a majority of the electoral college.

SENATE CONCURRENT RESOLUTION 126—RELATING TO EQUITABLE MENTAL HEALTH CARE BENEFITS

Mr. SHELBY (for himself, Mr. DOLE, and Mr. SIMON) proposed the following concurrent resolution; which was referred to the Committee on Labor and Human Resources:

S. CON. RES. 126

Whereas mental illness and substance abuse disorders are prevalent throughout our society;

Whereas approximately 19 percent of the adult population in the United States suffers from a diagnosable mental illness or a substance abuse disorder within any 6-month period;

Whereas mental illness and substance abuse disorders can strike at any point during a person's lifetime;

Whereas 12 percent of Americans under the age of 18, or approximately 7,500,000 children and adolescents, suffer from some type of mental illness or emotional disorder;

Whereas 1/3 of children in need of mental health care do not receive services, resulting in significant costs to society as these children become adults;

Whereas approximately 1/3 of homeless people suffer from a mental illness and approximately 40 percent of homeless people suffer from a substance abuse disorder;

Whereas there are more Americans with a serious mental illness in prisons and street shelters than in hospitals;

Whereas the incidence of mental illness and mental health problems is very costly both to the individual with a mental disorder and to society as a whole;

Whereas mental illness and substance abuse disorders are devastating to the lives of those afflicted, as there exists a direct and close relationship between mental health and overall well-being;

Whereas American businesses lose over \$100,000,000,000 per year due to lost productivity of employees because of substance abuse and mental illness;

Whereas annual direct costs of treatment for mental illness and substance abuse disorders are estimated at \$68,000,000,000 and annual indirect costs due to lost productivity, lost employment, vehicular accidents, criminal activity, and social welfare programs are estimated to be approximately \$250,000,000,000;

Whereas significant progress has been made within the last 10 years in research into the causes and treatments of mental illnesses, and many such illnesses are now treatable;

Whereas 77 percent or more of clinically depressed people were significantly better after receiving psychotherapy than their counterparts who did not receive treatment;

Whereas pharmacologic intervention for schizophrenia and bipolar disorders can dramatically reduce the rehospitalization rate for those afflicted with these disorders, improving the ability of such individuals to live productively in the community;

Whereas the success rate for the treatment of panic disorders is between 70 percent and 90 percent;

Whereas significant numbers of persons with mental illness in the United States find it difficult, if not impossible, to secure needed health care;

Whereas only approximately 20 percent of those in need of mental health services actually receive them;

Whereas mental health care is treated differently from care for other health conditions in both public and private financing systems;

Whereas 99 percent of insured individuals and their families have private health coverage for some inpatient mental health treatment, but only 37 percent have coverage that is equivalent to their coverage for other illnesses;

Whereas many private insurance programs continue to discriminate against individuals who suffer from mental illness or substance abuse disorders;

Whereas public insurance programs continue to discriminate against individuals who suffer from mental illness or substance abuse disorders, as evidenced by the fact that the Medicare program has a 50 percent copayment requirement for mental health care services but only a 20 percent copayment requirement for all other services; and

Whereas businesses, consumers, and Federal and State governments are already paying for mental health care for the uninsured and underinsured in an inefficient and inequitable manner, resulting in much unnecessary pain and suffering for those afflicted with mental disorders as well for their families: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring). That it is the sense of the Congress that any legislation passed by the Congress to address the ongoing and unmet health care needs of the American people must include benefits covering medically and psychologically necessary treatments for mental disorders which are equitable and comparable to benefits offered for any other illness.

Mr. SHELBY. Mr. President, you have heard the old saying; an ounce of prevention is worth a pound of cure. American businesses lose over \$100 billion per year in lost productivity because of employee mental illnesses or substance abuse. Each year we spend in this country approximately \$68 billion for the treatment of substance abuse and mental disorders. Yet, Mr. President, only 20 percent of the population in need of mental health services receive such treatments. This number includes the four-fifths of all children in need of such treatment who never receive it. The resulting cost to society of this untreated population in lost productivity, judicial and incarceration expenses, and social welfare expenditures is a staggering \$250 billion.

Mr. President, there has been a tremendous volume of health care legislation introduced during this Congress. I believe that most Members of Congress, including myself, are committed

to some form of national health care reform. However, when we consider such reforms, we should not neglect the very real problems and costs of mental illnesses. Both our private and public health care payment systems fail to treat mental disorders and substance abuse as substantial medical and societal problems. But if we in Congress are serious about addressing the gaps in our health care system and containing the costs of health care, then I believe that we must remember to address the deficiency of mental health treatment access. Preventative medicine lowers long-term health care costs. We all know that. Mental health treatment is no less a type of preventative medicine.

Certainly, Mr. President, wider access to such care under any national health care reform is essential for offsetting the overall cost to society of the neglect of mental health needs. To pay now for inpatient or outpatient treatment for a child suffering from a mental disorder is a small price to pay when compared to the cost of maintaining this child in prison when he reaches adulthood.

Presently, Mr. President, many private insurers require substantially higher deductibles for mental health services. Simultaneously, private insurers provide coverage for mental disorders at substantially lower levels than coverage levels for other illnesses. Only 37 percent of private insuranceholders have mental health coverage equal to their coverage for other health treatments.

Our public health insurance system rates mental illness at the same level of reduced concern as does our private insurance system. The Medicare copayment is 50 percent for mental health care services. This rate is 30 percent higher than the standard 20-percent copayment for other treatments.

Therefore, Mr. President, when we speak of an insurance gap, we cannot leave out the lack of access to mental health treatments. Approximately 19 percent of the adult population of this country suffers from a diagnosable mental illness or substance abuse problem within any 6-month period. Yet, only a fifth of these individuals receive treatment. If we consider that more Americans with mental illness are in street shelters or prisons than are in hospitals then, Mr. President, I believe we see the results of this gap in its starkest reality.

We cannot neglect this problem in the coming debate on health care. If we continue to view health care deficiencies solely in terms of traditional medical treatment categories, then we will miss an opportunity to spare our society, our people, the huge social expenditures that result from the failure to intercept and treat mental disorders.

For this reason, Mr. President, I am submitting a concurrent resolution

that expresses the sense of the Senate that the present gaps in mental health care coverage and access be addressed in any future health care legislation passed by Congress, and that such legislation treat mental illness as a condition comparable to other illnesses. If we address this problem now, we can reap untold savings in the future. I ask that my colleagues join me in support of this concurrent resolution.

AMENDMENTS SUBMITTED

FEDERAL HOUSING ENTERPRISES REGULATORY REFORM ACT

FORD (AND OTHERS) AMENDMENT NO. 2441

Mr. FORD (for himself Mr. BUMPERS, Mr. DOLE, Mr. GRASSLEY, Mr. HARKIN, Mr. FOWLER, Mr. SIMON, Mr. DECONCINI, and Mr. KOHL) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill (S. 2733) to improve the regulation of Government-sponsored enterprises, as follows:

At the end of the amendment, add the following new section:

SEC. . MORATORIUM ON INTERSTATE BRANCHING BY SAVINGS ASSOCIATIONS.

(a) MORATORIUM.—Notwithstanding any other provision of law, no Federal savings association may establish or acquire a branch outside the State in which the Federal savings association has its home office, unless the establishment or acquisition of such branch would have been permitted by law prior to April 9, 1992.

(b) APPLICABILITY.—This section shall apply during the period beginning on the date of enactment of this Act and ending 15 months after such date.

WARNER AMENDMENT NO. 2442

Mr. WARNER proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Tax Exempt Giving Act of 1992".

SEC. 2. PURPOSE.

The purpose of this Act is to require tax exempt organizations to provide contributors, upon request, with a disclosure statement containing a full accounting of the organization's income, expenditures, and compensation (including reimbursed expenses) of its highest-paid employees.

SEC. 3. IMPROVED DISCLOSURE TO DONORS BY TAX EXEMPT TABLE ORGANIZATIONS.

(a) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 (relating to returns by exempt organizations) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL REQUIREMENT FOR TAX EXEMPT ORGANIZATIONS.—

"(1) IN GENERAL.—Every organization described in section 501(c)(3), other than reli-

gions, which is subject to the requirements of subsection (a) (other than an organization described in clause (ii) or (iii) of section 170(b)(1)(A)) shall—

"(A) advise each contributor of at least \$25 of the availability, upon written request, of a disclosure statement described in paragraph (2), and

"(B) shall furnish such statement to such contributor within 30 days of such request.

"(2) DISCLOSURE STATEMENT.—The disclosure statement described in this paragraph is a statement for the most recent taxable year for which a return under subsection (a) has been filed, which contains the information described in—

"(A) paragraphs (1), (2), and (3) of subsection (b), and

"(B) paragraphs (6) and (7) of subsection (b), but only with respect to—

"(i) the 5 highest compensated individuals of the organization for such taxable year, and

"(ii) any other individual whose total compensation and other payments from such organization for such taxable year exceeds \$100,000.

"(3) PROCESSING FEES.—Any organization furnishing a disclosure statement under this subsection may require that a reasonable fee to cover the actual costs of copying and mailing such statement be included in the written request for such statement."

"(b) PENALTY FOR FAILURE TO MEET REQUIREMENTS.—Paragraph (1) of section 6652(c) of the Internal Revenue Code of 1986 (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph:

"(E) DISCLOSURE STATEMENT.—In the case of a failure to comply with the requirements of section 6033(e)(1) (relating to disclosure statements provided upon request), there shall be paid by the person failing to meet such requirements \$100 for each day during which such failure continues."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

BROWN AMENDMENT NO. 2443

Mr. BROWN proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

On page 273, after line 20, amend section 1065 by adding the following language to the end of paragraph (f):

"The amendments made by this section shall become effective immediately upon the reauthorization of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980."

DOMENICI (AND OTHERS) AMENDMENT NO. 2444

Mr. DOMENICI (for himself, Mr. DOLE, Mr. SEYMOUR, and Mr. NICKLES) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place insert the following:

SEC. —. NATIONAL ECONOMIC STRATEGY.

(a) It is the sense of the Congress that legislation should not be enacted that would:

(1) increase taxes on the American people and on small and large businesses over four years by at a minimum of \$150 billion;

(2) increase taxes by an additional \$10 billion on all businesses both small and large

by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

(3) increase spending for various and sundry domestic programs over the next four years by over \$190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

(4) increase Federal spending by nearly \$200 billion for health care programs and impose another \$100 billion in taxes on employers to partially pay for this spending;

(5) provide for a child tax credit or a middle-income tax cut that would add another \$45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

(6) increase the Federal deficit and not achieve a balanced budget in this century;

(7) terminate only one Federal program (the honey price support program);

(8) reduce mandatory spending by less than one-half of one percent over the next four years;

(9) reduce defense obligational authority by \$90 billion more than currently planned and in addition to the \$220 billion of reductions already planned; and

(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

DOMENICI (AND OTHERS) AMENDMENT NO. 2445

Mr. DOMENICI (for himself, Mr. MITCHELL, and Mr. MURKOWSKI) proposed an amendment to amendment No. 2437 (in the nature of a substitute) proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place in the manager's amendment, insert the following new section:

"SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

"(a)(1) The Administrator of United States Environmental Protection Agency shall provide to the Senate Environment and Public Works Committee and the House Energy and Commerce Committee by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established under the Comprehensive Environmental Response Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

"(A) Site name, number, state and total number of operable units;

"(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

"(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

"(D) Whether remedial action is underway, when it was commenced, and whether it has been completed and if so, when, and if not, when expected to be completed;

"(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

- "(i) owner/operator;
- "(ii) transporter;
- "(iii) person that arranged for disposal or treatment;
- "(iv) municipality;
- "(v) state agency;
- "(vi) lender or State or Federal lending agency; or
- "(vii) Federal agency;
- "(viii) any other entity; and
- "(ix) that portion of the site that cannot be attributed to any potentially responsible party including dollar amount and volumetric share.

"(F) Site classification;

"(G) Whether the facility is still in operation;

"(H) Number of Records of Decision to be issued;

"(I) Description of elements of removal and/or remedial action.

"(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

"(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through deminimis settlements and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance.

"(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

"(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

"(N) Description of settlement and enforcement activities;

"(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

"(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the Report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(b) The General Accounting Office shall undertake a comprehensive review of relevant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a Report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(C)(1) No later than September 30, 1993, the Administrator of EP, and in consultation with ATSDR, the National Academy of

Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or other response has been completed, taking into consideration the implications of Land use policy at such sites and the effect of post-clean-up liability on future uses.

"(4) The Administrator of the United States Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the report as part of the submission to the Congress."

DOMENICI (AND OTHERS) AMENDMENT NO. 2446

Mr. DOMENICI (for himself, Mr. DOLE, and Mr. SEYMOUR) proposed an amendment to the bill S. 2733, supra, as follows:

At the appropriate place insert the following:

"SEC. . NATIONAL ECONOMIC STRATEGY.

"(a) It is the sense of the Congress that legislation should not be enacted that would:

"(1) increase taxes on the American people and on small and large businesses over four years by at a minimum of \$150 billion;

"(2) increase taxes by an additional \$10 billion on all businesses both small and large by imposing a 1.5-percent tax on their payroll for undefined training and education programs;

"(3) increase spending for various and sundry domestic programs over the next four years by over \$190 billion for loosely defined programs to "put America to work" and increase "lifetime learning";

"(4) increase Federal spending by nearly \$200 billion for health care programs and impose another \$100 billion in taxes on employers to partially pay for this spending;

"(5) provide for a child tax credit or a middle-income tax cut that would add another \$45 billion to the deficit over the next four years or further increase taxes on businesses and other individuals;

"(6) increase the Federal deficit and not achieve a balanced budget in this century;

"(7) terminate only one Federal program (the honey price support program);

"(8) reduce mandatory spending by less than one-half of one percent over the next four years;

"(9) reduce defense obligational authority by \$90 billion more than currently planned and in addition to the \$220 billion of reductions already planned; and

"(10) violate the 1990 Budget Enforcement Act provisions setting aggregate spending caps on discretionary programs and pay-as-you-go provisions for entitlement and revenue programs.

NICKLES (AND OTHERS) AMENDMENT NO. 2447

Mr. SEYMOUR (for Mr. NICKLES, for himself, Mr. SEYMOUR, and Mr. GRAMM) proposed an amendment to the bill S. 2733, supra, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

"That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principle.

"SECTION 8. This article shall take effect beginning with fiscal year 1988 or with the second fiscal year beginning after its ratification, whichever is later."

BYRD AMENDMENT NO. 2448

Mr. BYRD proposed an amendment to amendment No. 2447 proposed by Mr. NICKLES (and others) to the bill S. 2733, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

The Senate finds that—

(1) the President's 1993 budget estimates that the deficit for fiscal year 1992 will be \$449,125,000,000;

(2) the national debt as of June 18, 1992 was \$3,835,251,000,000;

(3) it is estimated in the President's budget supplement for fiscal year 1993 that the national debt subject to the statutory limit will be—

(A) \$4,513,229,000,000 for fiscal year 1993;
 (B) \$4,856,863,000,000 for fiscal year 1994;
 (C) \$5,201,542,000,000 for fiscal year 1995;
 (D) \$5,549,928,000,000 for fiscal year 1996; and
 (E) \$5,917,713,000,000 for fiscal year 1997;
 (4) no President since 1980 has submitted a balanced budget for the budget year to Congress; and

(5) the President and the Congress must agree upon a plan to balance the budget in order to decrease the debt burden on current and future generations and provide a long-term sound economic structure for future generations.

SEC. 2. BALANCED BUDGET PLAN.

(a) **PRESIDENT'S PLAN.**—The President shall submit not later than September 2, 1992, a 5-year deficit reduction plan, using the economic and technical assumption contained in the President's 1993 budget, to balance the budget by September 30, 1998.

(b) **ELEMENTS OF PLAN.**—The Plan shall consist of—

(1) reductions in discretionary spending including domestic, defense, and international spending;

(2) reductions in, and controls on, entitlement and other mandatory spending; and

(3) increases in revenues.

BYRD AMENDMENT NO. 2449

Mr. BYRD proposed an amendment to amendment No. 2448 proposed by him to amendment No. 2447 proposed by Mr. NICKLES (and others to the bill S. 2733, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. FINDINGS.

The Senate finds that—

(1) the President's 1993 budget estimates that the deficit for fiscal year 1992 will be \$449,125,000,000;

(2) the national debt as of June 18, 1992 was \$3,835,251,000,000;

(3) it is estimated in the President's budget supplement for fiscal year 1993 that the national debt subject to the statutory limit will be—

(A) \$4,513,229,000,000 for fiscal year 1993;

(B) \$4,856,863,000,000 for fiscal year 1994;

(C) \$5,201,542,000,000 for fiscal year 1995;

(D) \$5,549,928,000,000 for fiscal year 1996; and

(E) \$5,917,713,000,000 for fiscal year 1997;

(4) no President since 1980 has submitted a balanced budget for the budget year to Congress; and

(5) the President and the Congress must agree upon a plan to balance the budget in order to decrease the debt burden on current and future generations and provide a long-term sound economic structure for future generations.

SEC. 2. BALANCED BUDGET PLAN.

(a) **PRESIDENT'S PLAN.**—The President shall submit not later than September 1, 1992, a 5-year deficit reduction plan, using the economic and technical assumptions contained in the President's 1993 budget, to balance the budget by September 30, 1998.

(b) **ELEMENTS OF PLAN.**—The plan shall consist of—

(1) reductions in discretionary spending including domestic, defense, and international spending;

(2) reductions in, and controls on, entitlement and other mandatory spending; and

(3) increases in revenues.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Federal Housing Enterprises Regulatory Reform Act of 1992".

(b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Effective date.

TITLE I—SUPERVISION AND REGULATION OF THE ENTERPRISES

- Sec. 101. Establishment of the Office of Federal Housing Enterprise Oversight.
- Sec. 102. Duties of Director.
- Sec. 103. Authority of Director.
- Sec. 104. Personnel.
- Sec. 105. Funding.
- Sec. 106. Information, records, and meetings.
- Sec. 107. Regulations.
- Sec. 108. Savings provision.
- Sec. 109. Annual report of the Director.
- Sec. 110. Financial reports and examinations.
- Sec. 111. Equal opportunity in solicitation of contracts.
- Sec. 112. Conforming amendment.
- Sec. 113. Amendment to Department of Housing and Urban Development Act.
- Sec. 114. Protection of confidential information.
- Sec. 115. Limitation on subsequent employment.
- Sec. 116. Protecting taxpayers against liability for the enterprises.

TITLE II—REQUIRED CAPITAL LEVELS FOR THE ENTERPRISES AND SPECIAL ENFORCEMENT POWERS

- Sec. 201. Risk-based capital levels.
- Sec. 202. Minimum capital levels.
- Sec. 203. Critical capital levels.
- Sec. 204. Capital classifications.
- Sec. 205. Supervisory actions applicable to enterprises.
- Sec. 206. Changes in the classification of an enterprise in connection with a capital restoration plan.
- Sec. 207. Mandatory appointment of conservator for critically undercapitalized enterprises.
- Sec. 208. Capital restoration plans.
- Sec. 209. Notice and hearing.
- Sec. 210. Judicial review of Director action.
- Sec. 211. Ratings.
- Sec. 212. Capital.

TITLE III—ENFORCEMENT PROVISIONS

- Sec. 301. Cease-and-desist proceedings.
- Sec. 302. Temporary cease-and-desist orders.
- Sec. 303. Hearings and judicial review.
- Sec. 304. Jurisdiction and enforcement.
- Sec. 305. Civil money penalties.
- Sec. 306. Notice under this title after separation from service.
- Sec. 307. Private rights of action.
- Sec. 308. Subpoena power.
- Sec. 309. Public disclosure of final orders and agreements.

TITLE IV—CONSERVATORSHIP

- Sec. 401. Appointment of conservator.
- Sec. 402. Powers of a conservator.
- Sec. 403. Termination of conservatorship.
- Sec. 404. Liability protection.
- Sec. 405. Enforcement of contracts.

TITLE V—HOUSING

- Sec. 501. General authority.
- Sec. 502. Low- and moderate-income housing goal.
- Sec. 503. Special affordable housing goal.
- Sec. 504. Central city, rural area, and other underserved areas housing goal.
- Sec. 505. Other requirements.
- Sec. 506. Monitoring compliance with housing goals.
- Sec. 507. Data collection and reporting requirements for the enterprises.

- Sec. 508. Annual report of the Director.
- Sec. 509. Compliance.
- Sec. 510. Advisory council.
- Sec. 511. Geographic distribution.
- Sec. 512. Multifamily mortgage activities.
- Sec. 513. Board of Directors qualifications.
- Sec. 514. Fair housing.
- Sec. 515. Prohibition on public disclosure of proprietary information.

TITLE VI—CHARTER ACT AMENDMENTS

- Sec. 601. Amendments to the Federal National Mortgage Association Charter Act.
- Sec. 602. Amendments to the Federal Home Loan Mortgage Corporation Act.

TITLE VII—REGULATION OF FEDERAL HOME LOAN BANK SYSTEM

- Sec. 701. Primacy of financial safety and soundness for Federal Housing Finance Board.
- Sec. 702. Study regarding Federal Home Loan Bank System.
- Sec. 703. Reports of Federal Home Loan Banks.
- Sec. 704. Reports of Federal Home Loan Bank members.
- Sec. 705. Full-time status of FHF members.

TITLE VIII—STUDY OF NATIONAL CONSUMER COOPERATIVE BANK

- Sec. 801. Study of National Consumer Cooperative Bank.

TITLE IX—MISCELLANEOUS

Subtitle A—Miscellaneous

- Sec. 901. Privatization study.
- Sec. 902. Housing assistance in Jefferson County, Texas.
- Sec. 903. Applicability of shelter plus care.
- Sec. 904. Adjustable rate mortgage caps.
- Sec. 905. Community development authority of banks.

Subtitle B—Presidential Insurance Commission

- Sec. 911. Short title.
- Sec. 912. Findings.
- Sec. 913. Establishment.
- Sec. 914. Duties of the Commission.
- Sec. 915. Membership and compensation.
- Sec. 916. Powers of Commission.
- Sec. 917. Staff of Commission; experts and consultants.

- Sec. 918. Report.
- Sec. 919. Termination.
- Sec. 920. Authorization of appropriations.

Subtitle C—Secondary Market for Commercial Mortgage Loans

- Sec. 921. Short title.
- Sec. 922. Purpose.
- Sec. 923. Findings.
- Sec. 924. Study by the Treasury, CBO, and SEC.

- Sec. 925. Report and study by the RTC.

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that—

(1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (as set forth in section 301 of the Federal National Mortgage Association Charter Act and section 301 of the Federal Home Loan Mortgage Corporation Act), and the Federal Home Loan Banks have important public purposes;

(2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public purposes is important to providing housing in the United States and the health of the Nation's economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;

(3) given their current operating procedures, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation pose a low financial risk to the Federal Government;

(4) the securities issued by such enterprises are not backed by the full faith and credit of the United States;

(5) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(6) the Federal Home Loan Bank Act should be amended to emphasize that providing for financial safety and soundness is the primary mission of the Federal Housing Finance Board.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) **AFFILIATE.**—Except as provided by the Director, the term "affiliate" means any entity that controls, is controlled by, or is under common control with an enterprise.

(2) **CAPITAL DISTRIBUTION.**—

(A) **IN GENERAL.**—The term "capital distribution" means—

(i) a dividend or other distribution in cash or in kind made with respect to any shares or other ownership interest in an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) a payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; or

(iii) a transaction that the Director determines by order or regulation to be in substance the distribution of capital.

(B) **EXCEPTION.**—A payment made by an enterprise to repurchase its shares for the purpose of fulfilling an enterprise obligation under an employee stock ownership plan that is qualified under section 401 of the Internal Revenue Code shall not be considered a capital distribution.

(3) **DIRECTOR.**—The term "Director" means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(4) **ENTERPRISE.**—The term "enterprise" means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(5) **EXECUTIVE OFFICER.**—The term "executive officer" means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(6) **LOW INCOME.**—The term "low income" means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; or

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(7) **MODERATE INCOME.**—The term "moderate income" means—

(A) in the case of owner-occupied units, income not in excess of area median income; or

(B) in the case of rental units, income not in excess of area median income, with ad-

justments for smaller and larger families, as determined by the Secretary.

(8) **MORTGAGE PURCHASES.**—The term "mortgage purchases" includes mortgages purchased for portfolio or securitization.

(9) **NEW PROGRAM.**—The term "new program" means any product or program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from products or programs that have been approved under this Act or that were approved or engaged in by an enterprise before the effective date of this Act, or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of products or programs above limits expressly contained in any prior approval.

(10) **OFFICE.**—The term "Office" means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(11) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 4. EFFECTIVE DATE.

Except where otherwise specified, the effective date of this Act shall be the date of the initial appointment of the Director.

TITLE I—SUPERVISION AND REGULATION OF THE ENTERPRISES

SEC. 101. ESTABLISHMENT OF THE OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

(a) **ESTABLISHMENT.**—There is established in the Department of Housing and Urban Development an Office of Federal Housing Enterprise Oversight.

(b) **DIRECTOR.**—

(1) **IN GENERAL.**—The Office shall be under the management of a Director who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—

(A) are citizens of the United States,

(B) have a demonstrated understanding of financial management or oversight, and

(C) have a demonstrated understanding of mortgage security markets and housing finance.

(2) **LIMITATION.**—An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 18-month period preceding the nomination of such individual.

(3) **COMPENSATION.**—The Director shall be compensated as prescribed in section 5313 of title 5, United States Code.

(4) **TERM.**—The Director shall be appointed for a term of 5 years.

(5) **VACANCY.**—A vacancy in the position of Director shall be filled in the same manner as the original appointment.

(6) **SERVICE AFTER THE END OF THE TERM.**—A Director may serve after the expiration of the term for which the Director was appointed until a successor has been appointed.

(c) **EFFECTIVE DATE.**—Subsection (a) shall take effect on the date of enactment of this Act.

SEC. 102. DUTIES OF DIRECTOR.

(a) **PRIMARY DUTY.**—The primary duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely in accordance with this Act and the charter Acts.

(b) **OTHER DUTIES.**—The Director shall also ensure that the enterprises carry out the public purposes of their respective charter Acts.

SEC. 103. AUTHORITY OF DIRECTOR.

(a) **AUTHORITY EXCLUSIVE OF THE SECRETARY.**—The Director is authorized, without the review or approval of the Secretary, to—

(1) issue regulations concerning the financial health and security of the enterprises, including the establishment of capital standards;

(2) develop and propose to the Secretary any other regulations necessary and proper to carry out this Act and ensure that the purposes of the charter Acts are accomplished;

(3) establish annual budgets, financial reports, and annual assessments for the costs of the Office;

(4) examine each enterprise's financial and operating condition;

(5) determine capital levels of the enterprises;

(6) undertake administrative and enforcement actions under this Act;

(7) appoint conservators for the enterprises;

(8) monitor and enforce compliance with housing goals under this Act;

(9) conduct research and financial analysis;

(10) submit annual and other reports required under this Act;

(11) perform such other functions as are necessary to carry out this Act and ensure that the purposes of the charter Acts are accomplished.

(b) **AUTHORITY SUBJECT TO THE SECRETARY'S REVIEW.**—Except as provided in subsection (a), the Director may issue any regulations necessary to carry out this Act and ensure that the purposes of the charter Acts are accomplished, including regulations—

(1) concerning the housing finance missions of the enterprises, including the affordable housing and other housing provisions under title V of this Act; and

(2) to establish and monitor compliance with fair lending requirements; subject to the Secretary's review and approval.

(c) **DELEGATION OF AUTHORITY.**—The Director may delegate to employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(d) **INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.**—The Director is not required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress any recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

(e) **APPROVAL OF NEW PROGRAMS.**—

(1) **IN GENERAL.**—The introduction of a new program by an enterprise pursuant to its charter Act shall be subject to prior approval by both the Secretary and the Director, except as provided in paragraph (5).

(2) **APPROVAL PROCEDURE.**—Not later than 45 days after submission of the request for approval of a new program or notice under paragraph (5)(A), the Secretary and the Director shall approve the new program or transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report explaining why the new program has not been approved. The 45-day period may be extended for one additional 15-day period if the Secretary or the Director

requests additional information from the enterprise, but the 45-day period may not be extended for any other reason. If the Secretary and the Director fail to transmit the report within the 45-day period or 60-day period, as the case may be, the enterprise may proceed as if the new program had been approved.

(3) **APPROVAL BY THE DIRECTOR.**—

(A) **IN GENERAL.**—The Director shall approve a new program unless the Director determines that the program would risk significant deterioration of the financial condition of the enterprise.

(B) **UNDERCAPITALIZED INSTITUTIONS.**—If an enterprise is undercapitalized, the Director shall approve a new program only if the Director determines that the program will likely improve or not worsen the financial and capital condition of the enterprise.

(4) **APPROVAL BY THE SECRETARY.**—The Secretary shall approve a new program unless the Secretary determines that the program is not authorized by the relevant charter Act or would have a deleterious effect on housing finance.

(5) **SPECIAL APPROVAL PROCEDURE FOR AN ADEQUATELY CAPITALIZED ENTERPRISE.**—

(A) **NOTICE.**—If an adequately capitalized enterprise plans to introduce a new program, it shall submit a written notice to the Secretary and the Director.

(B) **APPROVAL BY THE DIRECTOR.**—A new program submitted by an enterprise in accordance with subparagraph (A) shall not be subject to approval by the Director.

(C) **APPROVAL BY THE SECRETARY.**—Within 20 business days after submission of the notice, the new program shall be deemed approved unless the Secretary determines that there is a substantial probability that the program is not authorized by the relevant charter Act or would have a deleterious effect on housing finance, in which case the Secretary shall inform the enterprise, by written notice, that the new program has not been approved under this paragraph, and the procedures of paragraph (2) shall apply.

(D) **EFFECTIVE DATE.**—This paragraph shall become effective on the date final regulations establishing the risk-based capital test are issued under section 201(e).

(E) **TRANSITION PERIOD.**—For the purposes of this paragraph, the capital classification of an enterprise shall be determined without regard to section 204(c).

(6) **HEARING.**—If the Secretary or the Director does not approve a new program, the Secretary or the Director, as the case may be, shall provide the enterprise with a timely opportunity to review and supplement the administrative record in an administrative hearing.

SEC. 104. PERSONNEL.

(a) **IN GENERAL.**—

(1) **DIRECTOR'S POWERS.**—The Director may appoint and fix the compensation of employees and agents necessary to carry out the functions of the Director and the Office.

(2) **COMPENSATION.**—

(A) **EXCLUSION FROM GENERAL SCHEDULE PAY RATES.**—Employees other than the Director may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(B) **COMPARABILITY OF COMPENSATION WITH FEDERAL BANK REGULATORY AGENCIES.**—In fixing and directing compensation under paragraph (1), the Director shall consult with, and maintain comparability with compensation at, the Federal bank regulatory agencies.

(b) **DEPUTY DIRECTOR.**—

(1) **IN GENERAL.**—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who—

(A) are citizens of the United States,

(B) have a demonstrated understanding of financial management or oversight, and

(C) have a demonstrated understanding of mortgage security markets and housing finance.

(2) **LIMITATION.**—An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 18-month period immediately preceding the nomination of such individual.

(3) **POWERS, FUNCTIONS, AND DUTIES.**—The Deputy Director shall—

(A) have such powers, functions, and duties as the Director shall prescribe, and

(B) serve as acting Director in the event of the death, resignation, sickness, or absence of the Director, until the return of the Director or the appointment of a successor under section 101.

(c) **FEDERAL AGENCIES.**—

(1) **IN GENERAL.**—With the consent of any executive agency, independent agency, or department, the Director may use information, services, staff, and facilities of such agency or department on a reimbursable basis, in carrying out the duties of the Office.

(2) **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(d) **OUTSIDE EXPERTS AND CONSULTANTS.**—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(e) **EQUAL OPPORTUNITY REPORT.**—Not later than 180 days after the effective date of this Act, the Director shall submit to the Congress a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director may determine to be appropriate to carry out such programs.

SEC. 105. FUNDING.

(a) **ANNUAL ASSESSMENT.**—The Director shall levy an annual assessment on the enterprises sufficient to pay for the estimated expenses of the Office.

(b) **ALLOCATION OF ANNUAL ASSESSMENT TO THE ENTERPRISES.**—

(1) **AMOUNT OF PAYMENT.**—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) **TIMING OF PAYMENT.**—The annual assessment shall be payable semiannually on September 1 and March 1 of each year.

(3) **DEFINITION.**—For the purpose of this section, the term "total assets" means the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) **RECEIPTS FROM ANNUAL ASSESSMENTS AND THE SPECIAL ASSESSMENT.**—Office receipts derived from the annual assessments and the special assessment levied upon the enterprises pursuant to subsection (f)—

(1) shall be available to the Director for expenses necessary to carry out the responsibilities of the Director relating to the enterprises;

(2) shall be used by the Director to pay the expenses necessary to carry out the responsibilities of the Director relating to the enterprises; and

(d) **DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION AND ENFORCEMENT.**—The semiannual payments made pursuant to subsection (b) by any enterprise that is not adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation and enforcement.

(e) **SURPLUS.**—If any amount paid by an enterprise remains unspent at the end of any semiannual period, such amount shall be deducted from the annual assessment required to be paid by that enterprise for the following semiannual period.

(f) **INITIAL SPECIAL ASSESSMENT.**—The Director shall levy on the enterprises an initial special assessment, allocated pursuant to subsection (b)(1), to cover the startup costs of the Office, including space modifications, capital equipment, supplies, recruitment, and activities of the Office in the first year. Each enterprise shall pay its portion of the initial special assessment no later than 10 days after the date the assessment is made.

(g) **BUDGET AND FINANCIAL REPORTS FOR THE OFFICE.**—

(1) **FINANCIAL OPERATING PLANS AND FORECASTS.**—Before the beginning of each fiscal year, the Director shall provide to the Secretary and the Director of the Office of Management and Budget a copy of the Office's financial operating plans and forecasts.

(2) **REPORTS OF OPERATIONS.**—As soon as practicable after the end of each fiscal year and each quarter, the Director shall submit to the Secretary and the Director of the Office of Management and Budget a copy of the report of the results of the Office's operations during such period.

(3) **VIEWS OF THE SECRETARY.**—On an annual basis the Secretary shall provide the Congress with comments on the plans, forecasts, and reports required under this subsection.

(4) **INCLUSION IN THE PRESIDENT'S BUDGET.**—The annual plans, forecasts, and reports required under this subsection shall be included in the Budget of the United States in the appropriate form, and in the Department's congressional justifications for each fiscal year in a form determined by the Secretary.

(5) **AUDIT.**—

(A) **IN GENERAL.**—The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to or used by the Office shall be made available to the Comptroller General.

(B) **FREQUENCY.**—Audits shall be conducted annually for the first 2 years following the effective date of this Act and as appropriate thereafter.

SEC. 106. INFORMATION, RECORDS, AND MEETINGS.

For purposes of subchapter II of chapter 5 of title 5, United States Code, the Office and the Department of Housing and Urban Development shall, with respect to activities under this Act, be considered agencies re-

sponsible for the regulation or supervision of financial institutions.

SEC. 107. REGULATIONS.

In promulgating regulations relating to the financial health and security of an enterprise, the Director shall—

(1) consult in the development of such regulations with the Secretary, the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System; and

(2) provide copies of proposed regulations to the Secretary, the Secretary of the Treasury, and the Chairman of the Board of Governors of the Federal Reserve System for their review and comment, which comments shall be in writing and made a part of the record.

SEC. 108. SAVINGS PROVISION.

Any rule or regulation promulgated prior to the effective date of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain valid unless they are modified, terminated, superseded, set aside, or revoked by operation of law or in accordance with law.

SEC. 109. ANNUAL REPORT OF THE DIRECTOR.

Not later than June 15 of each year, the Director shall submit to the Secretary and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a written report which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this Act;

(2) a description of the financial condition of each enterprise, including the results and conclusions of the annual examinations of the enterprises;

(3) an assessment, in accordance with section 508, of the extent to which each enterprise is achieving its public purposes; and

(4) any recommendations for legislation.

SEC. 110. FINANCIAL REPORTS AND EXAMINATIONS.

(a) FINANCIAL REPORTS.—

(1) IN GENERAL.—Each enterprise shall provide to the Director annual and quarterly reports of financial condition and operations which shall be in such form, contain such information, and be made on such dates, as the Director may require.

(2) CONTENTS OF ANNUAL REPORT.—Each annual report shall include—

(A) financial statements prepared in accordance with generally accepted accounting principles;

(B) any supplemental information or alternative presentation that the Director may require; and

(C) a report signed by the enterprise's chief executive officer and chief accounting or financial officer, that assesses, as of the end of the enterprise's most recent fiscal year—

(i) the effectiveness of the enterprise's internal control structure and procedures; and

(ii) the enterprise's compliance with designated safety and soundness laws.

(3) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

(A) AUDITS REQUIRED.—Each enterprise shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(B) SCOPE OF AUDIT.—In conducting an audit under this subsection, an independent public accountant shall determine and report on whether the financial statements—

(i) are presented fairly in accordance with generally accepted accounting principles; and

(ii) to the extent determined necessary by the Director, comply with such other disclosure requirements as may be imposed under paragraph (2)(B).

(4) CERTIFICATION OF QUARTERLY REPORTS.—

(A) DECLARATION.—Quarterly reports shall contain a declaration by an officer designated by the board of directors of the enterprise to make such declaration that the report is true and correct to the best of his or her knowledge and belief.

(B) ATTESTATION.—The correctness of the quarterly report shall be attested by the signatures of at least 3 of the directors of the enterprise other than the officer making the declaration required by paragraph (4)(A). Such attestation shall include a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(5) REVIEW OF AUDITS.—The Director, or at the request of the Director or any Member of Congress, the Comptroller General of the United States, may review any audit of a financial statement conducted under this subsection. Upon request of the Director or the Comptroller General, an enterprise and its auditor shall provide all books, accounts, financial records, reports, files, workpapers, and property that the Director or the Comptroller General considers necessary to the performance of any review under this subsection.

(6) ADDITIONAL AND SPECIAL REPORTS.—The Director may require additional reports from an enterprise, in such form and containing such information as the Director may prescribe, on dates fixed by the Director, and may require special reports from an enterprise whenever, in the Director's judgment, such reports are necessary for the Director to carry out the purposes of this Act.

(b) EXAMINATIONS.—

(1) FREQUENCY OF EXAMINATIONS.—The Director shall conduct a full-scope, on-site examination of each enterprise whenever the Director determines that an examination is necessary, but not less than once every 12 months, to determine the condition of the enterprise and for the purpose of ensuring its financial health and security.

(2) EXAMINERS.—The Director is authorized to contract with any Federal banking agency for the services of examiners and to reimburse such agency for the cost of providing the examiners.

(3) TECHNICAL EXPERTS.—The Director is authorized to contract for the services of such technical experts as the Director determines necessary and appropriate to provide temporary or periodic technical assistance in an examination.

(4) POWER AND DUTY OF EXAMINERS.—Each examiner shall make a full and detailed report to the Director of the financial condition of the enterprise examined.

(5) LAW APPLICABLE TO EXAMINERS.—The Director and each examiner shall have the same authority and each examiner shall be subject to the same obligations and penalties as are applicable to examiners employed by the Federal Reserve banks.

(6) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE; SUBPOENA POWERS.—In connection with any investigation, examination of an enterprise, or administrative proceeding, the Director shall have the authorities conferred by section 308.

(7) PRESERVATION OF RECORDS BY PHOTOGRAPHY.—

(A) IN GENERAL.—The Director may cause any record, paper, or document to be copied

or photographed, in a manner that complies with the minimum standards of quality approved for permanent photographic records by the National Institute of Standards and Technology.

(B) DEEMED AS ORIGINALS.—Such copies or photographs, shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies.

(C) PRESERVATION.—Any such photograph or copy shall be preserved as the Director shall prescribe, and the original may be destroyed.

SEC. 111. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.

(a) IN GENERAL.—The enterprises shall establish a minority outreach program to ensure inclusion, to the maximum extent possible, of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services, in contracts entered into by the enterprises with such persons or business, public and private, in order to perform the functions authorized under any law applicable to the enterprises.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, each enterprise shall submit to the Congress and to the Director a report describing the actions taken by the enterprise pursuant to subsection (a).

SEC. 112. CONFORMING AMENDMENT.

Section 5313 of title 5, United States Code, is amended by inserting at the end the following:

"Director of the Office of Federal Housing Enterprise Oversight."

SEC. 113. AMENDMENT TO DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT.

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions or responsibilities of such Office with any function or program administered by the Secretary."

SEC. 114. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 1905 of title 18, United States Code, is amended by inserting "a consultant to the Office of Federal Housing Enterprise Oversight," after "or agency thereof,".

SEC. 115. LIMITATION ON SUBSEQUENT EMPLOYMENT.

(a) IN GENERAL.—Neither the Director nor a former officer or employee of the Office may accept compensation from an enterprise during the 2-year period beginning on the date of separation from employment by the Office.

(b) APPLICABILITY.—The limitation contained in subsection (a) applies only to any former officer or employee who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS-15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 116. PROTECTING TAXPAYERS AGAINST LIABILITY FOR THE ENTERPRISES.

Nothing in this Act shall be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation or the Federal National Mortgage

Association, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, and nothing in this Act shall be construed as implying that either enterprise or its securities are backed by the full faith and credit of the United States.

SEC. 117. ANNUAL LITIGATION REPORT.

Not later than March 15 of each year, the Attorney General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a written report which shall set forth for the preceding calendar year the number of requests by the Director to the Attorney General to conduct litigation pursuant to section 516 of title 28 of the United States Code and the status thereof, including—

(1) the total number of requests by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to those requests that resulted in the commencement of litigation—

(A) the number of days between the date of the Director's request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation;

(5) with respect to those requests that did not result in the commencement of litigation, a list of principal reasons thereof and the number of requests for which each reason is applicable; and

(6) a reconciliation showing the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

SEC. 118. PROHIBITING EXCESSIVE COMPENSATION.

(a) IN GENERAL.—The Director shall prohibit an enterprise from providing excessive compensation to any executive officer.

(b) SETTING COMPENSATION PROHIBITED.—In carrying out subsection (a), the Director shall not set a specific level or range of compensation.

(c) DEFINITIONS.—For purposes of this section:

(1) COMPENSATION.—

(A) IN GENERAL.—The term "compensation" includes any payment of money or provision of any other thing of value in consideration of employment.

(B) FUTURE PAYMENT OR PROVISION.—The Director shall value any future payment or provision (including any payment or provision relating to the termination of employment) by calculating the present value of the projected cost of the payment or provision.

(2) EXCESSIVE.—An executive officer's compensation is "excessive" if it is unreasonable or disproportionate to the services actually performed by the executive officer, in view of—

(A) the enterprise's financial condition, including the extent to which the enterprise exceeds or falls below its minimum capital level;

(B) compensation practices at comparable publicly held financial institutions;

(C) any fraudulent act or omission, breach of fiduciary duty, or insider abuse by the ex-

ecutive officer with regard to the enterprise; and

(D) other factors that the Director determines to be relevant.

TITLE II—REQUIRED CAPITAL LEVELS FOR THE ENTERPRISES AND SPECIAL ENFORCEMENT POWERS

SEC. 201. RISK-BASED CAPITAL LEVELS.

(a) RISK-BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test which shall require each enterprise to maintain positive capital during a 10-year period (the "stress period") in which the following circumstances are assumed to occur:

(1) CREDIT RISK.—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for the industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing not less than 5 percent of the total population of the United States that, for a period of not less than 2 years (the "benchmark regional experience"), experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration, as determined by the Director.

(2) INTEREST RATE RISK.—

(A) IN GENERAL.—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) DECREASES.—The 10-year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

(i) 600 basis points below the average yield during the preceding 9 months, or

(ii) 60 percent of the average yield during the preceding 3 years,

but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) INCREASES.—The 10-year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(i) 600 basis points above the average yield during the preceding 9 months, or

(ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) DIFFERENT TERMS TO MATURITY.—Yields of Treasury instruments with other terms to maturity will change relative to the 10-year yield in patterns and for durations that are within the range of historical experience and are judged reasonable by the Director but must result by the 5th year of the stress period in patterns of yields with respect to maturities that are consistent with average patterns over periods of not less than 2 years as established by the Director.

(E) LARGE INCREASES IN YIELDS.—If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a cor-

respondingly higher rate of general price inflation.

(3) NEW BUSINESS.—

(A) IN GENERAL.—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) ADDITIONAL NEW BUSINESS.—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) AMOUNT AND PRODUCT TYPES.—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) LOSSES.—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) PRICING.—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) INTEREST RATE RISK.—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) RESERVES.—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) STUDIES.—Within 1 year after regulations are first issued under subsection (e), the Director, the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) EFFECTIVE DATE.—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under section 201(e).

(4) OTHER ACTIVITIES.—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) CONSISTENCY.—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the

basis of available information, to be most consistent with the stress period.

(c) **RISK-BASED CAPITAL LEVEL.**—For purposes of this title, the risk-based capital level for an enterprise shall be 130 percent of the amount of capital required to meet the risk-based capital test.

(d) **DEFINITIONS.**—For purposes of this section:

(1) **SEASONING.**—The term "seasoning" means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of comparable or superior quality).

(2) **TYPE OF MORTGAGE PRODUCT.**—The term "type of mortgage product" means a classification of 1 or more mortgage products, as established by the Director, that have similar characteristics based on the set of characteristics set forth in the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

(iii) more than 30 years.

(E) The owner of the property is—

(i) an owner-occupant; or

(ii) an investor.

(F) The unpaid principal balance of the mortgage—

(i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;

(ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or

(iii) may increase significantly at some time during the term of the mortgage.

(G) Any other characteristics of the mortgage, as the Director may determine.

(e) **REGULATIONS.**—

(1) **IN GENERAL.**—The Director shall issue final regulations establishing the risk-based capital test not later than 18 months after the effective date of this Act. Such regulations shall be effective when issued.

(2) **CONTENTS.**—Such regulations shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates).

(3) **APPLICATION.**—The regulations and any accompanying orders or guidelines shall be sufficiently specific to enable each enterprise to apply the test to that enterprise in the same manner as the Director, and to enable the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Director of the Congressional Budget Office, the Comptroller General of the United States, the Director of the Office of Management and Budget, or a consultant

to the Office to apply the test in the same manner as the Director.

(4) **CONFIDENTIALITY OF INFORMATION.**—Any person or agency described in paragraph (3) that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) **AVAILABILITY OF MODEL.**—The Director shall make available to the public copies of any statistical model used to implement the risk-based capital test under this section. The Director may charge a reasonable fee for any copy of a statistical model.

SEC. 202. MINIMUM CAPITAL LEVELS.

(a) **IN GENERAL.**—The minimum capital level for each enterprise shall be the sum of—

(1) 2.50 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 6 months to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

(b) **TRANSITION.**—Notwithstanding subsection (a), until the expiration of the 18-month period beginning on the date of enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 1 year to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

SEC. 203. CRITICAL CAPITAL LEVELS.

The critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) those percentages of off-balance-sheet obligations not included in paragraph (2) (excluding commitments with remaining terms of no more than 6 months to purchase mortgages or issue securities), that the Director determines best reflect the credit risk of such obligations or guarantees in relation to those included in paragraph (2).

SEC. 204. CAPITAL CLASSIFICATIONS.

(a) **IN GENERAL.**—The Director shall classify an enterprise according to the following categories:

(1) **ADEQUATELY CAPITALIZED.**—An enterprise shall be classified as "adequately capitalized" if the enterprise meets or exceeds both its risk-based capital level and its minimum capital level.

(2) **UNDERCAPITALIZED.**—An enterprise shall be classified as "undercapitalized" if it is not adequately capitalized.

(3) **SIGNIFICANTLY UNDERCAPITALIZED.**—An enterprise shall be classified as "significantly undercapitalized" if the enterprise does not meet or exceed its minimum capital level.

(4) **CRITICALLY UNDERCAPITALIZED.**—An enterprise shall be classified as "critically undercapitalized" if it does not meet its critical capital level.

(b) **QUARTERLY CLASSIFICATION.**—The Director shall classify an enterprise not less than quarterly. The first such classification shall be made within 3 months after the effective date of this Act.

(c) **IMPLEMENTATION.**—Notwithstanding subsection (a), an enterprise shall be classified as adequately capitalized until 1 year after the regulations are first issued under section 201(e), if the enterprise meets or exceeds the applicable minimum capital level.

SEC. 205. SUPERVISORY ACTIONS APPLICABLE TO ENTERPRISES.

(a) **SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.**—

(1) **CAPITAL RESTORATION PLAN.**—An undercapitalized enterprise shall submit to the Director and implement a capital restoration plan.

(2) **RESTRICTION ON CAPITAL DISTRIBUTIONS.**—An undercapitalized enterprise that is not significantly undercapitalized shall make no capital distribution that would result in the enterprise being classified as significantly undercapitalized.

(b) **ADDITIONAL SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.**—

(1) **RESTRICTIONS ON CAPITAL DISTRIBUTIONS.**—

(A) **PRIOR APPROVAL.**—A significantly undercapitalized enterprise shall make no capital distribution that would result in the enterprise being classified as critically undercapitalized. A significantly undercapitalized enterprise may make any other capital distribution only with the prior approval of the Director.

(B) **STANDARD FOR APPROVAL.**—The Director may approve a capital distribution by a significantly undercapitalized enterprise only if the Director determines that the payment—

(i) will enhance the ability of the enterprise promptly to meet the risk-based capital level and the minimum capital level for the enterprise,

(ii) will contribute to the long-term financial health and security of the enterprise, or

(iii) is otherwise in the public interest.

(2) **DISCRETIONARY SUPERVISORY ACTIONS.**—

(A) **IN GENERAL.**—The Director may by order take any of the following actions with respect to a significantly undercapitalized enterprise:

(i) Limit any increase in, or order the reduction of, any obligations of the enterprise.

(ii) Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(iii) Require the enterprise to raise new capital.

(iv) Require the enterprise to terminate, reduce, or modify any activity that the Di-

rector determines creates excessive risk to the enterprise.

(v) Appoint a conservator for the enterprise if the Director determines that the capital of the enterprise is below its minimum level and that alternative remedies are not satisfactory to restore the enterprise's capital.

(B) APPOINTMENT OF CONSERVATOR.—

(i) **AUTHORITY.**—Title IV, except subsections (a), (b), and (c) of section 401, shall govern any conservatorship resulting from an appointment pursuant to subparagraph (A)(v).

(ii) **NOTICE AND HEARING.**—The appointment of a conservator under subparagraph (A)(v) shall be subject to the notice and hearing provisions set forth in section 209.

(c) **EFFECTIVE DATE.**—This section shall take effect when the first classifications are made under section 204(b).

SEC. 206. CHANGES IN THE CLASSIFICATION OF AN ENTERPRISE IN CONNECTION WITH A CAPITAL RESTORATION PLAN.

(a) **IN GENERAL.**—The Director may by order—

(1) classify an undercapitalized enterprise as significantly undercapitalized, or

(2) classify a significantly undercapitalized enterprise as critically undercapitalized, upon the occurrence of an event described in subsection (b).

(b) **REASONS FOR THE CHANGE IN CLASSIFICATION.**—Subsection (a) shall apply if—

(1) the enterprise does not submit or resubmit a capital restoration plan that is substantially in compliance with section 208,

(2) the Director has not approved a capital restoration plan submitted by the enterprise and the enterprise's opportunities for resubmission of a capital restoration plan have expired, or

(3) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

SEC. 207. MANDATORY APPOINTMENT OF CONSERVATOR FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.

(a) **APPOINTMENT.**—If the Director determines that an enterprise is critically undercapitalized, the Director shall appoint a conservator for the enterprise not later than 30 days after providing notice and an opportunity for a hearing pursuant to section 209, unless the Director determines, with the concurrence of the Secretary of the Treasury, that the public interest is better served by other action. Title IV, except subsections (a), (b), and (c) of section 401, shall govern any conservatorship resulting from an appointment under this section.

(b) **EFFECTIVE DATE.**—This section shall take effect when the first quarterly classifications are made under section 204(b).

SEC. 208. CAPITAL RESTORATION PLANS.

(a) **CONTENTS.**—A capital restoration plan submitted under this title shall—

(1) be a feasible plan for the enterprise that would likely enable it to become adequately capitalized;

(2) describe the actions that the enterprise will take to become adequately capitalized;

(3) establish a schedule for completing the actions set forth in the capital restoration plan;

(4) specify the types and levels of activities in which the enterprise will engage during the term of the capital restoration plan; and

(5) describe the actions that the enterprise will take to comply with any supervisory requirements imposed under this title.

(b) **DEADLINES FOR SUBMISSION.**—A capital restoration plan must be submitted to the Director not more than 45 days after the Director has notified the enterprise in writing that a plan is required. The Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and shall be for a specified period of time.

(c) **APPROVAL.**—The Director shall approve or disapprove each capital restoration plan not later than 45 days after submission. The Director may extend such period for an additional 15 days. The Director shall provide written notice of the decision to any enterprise submitting a plan. If the Director disapproves the plan, the Director shall provide to the enterprise the reasons for such disapproval in writing.

(d) **RESUBMISSION.**—If the initial capital restoration plan submitted by the enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

SEC. 209. NOTICE AND HEARING.

(a) **NOTICE.**—Before making a capital classification or taking a discretionary supervisory action under this title, the Director shall provide written notice of the proposed classification or action to the enterprise, stating the reasons for the classification or action, and shall provide the enterprise with a timely opportunity to review and supplement the administrative record in an administrative hearing.

(b) **NOTICE TO CONGRESS.**—After making a capital classification or taking a discretionary supervisory action under this title, the Director shall provide written notice to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

SEC. 210. JUDICIAL REVIEW OF DIRECTOR ACTION.

(a) **JURISDICTION.**—

(1) **FILING OF PETITION.**—An enterprise that is the subject of a capital classification or discretionary supervisory action pursuant to this title, other than the appointment of a conservator, may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's classification or action, a written petition requesting that the order of the Director be modified, terminated, or set aside.

(2) **EXCLUSIVE JURISDICTION.**—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to hear a petition filed pursuant to this subsection.

(b) **UNAVAILABILITY OF STAY.**—With respect to a classification or discretionary supervisory action by the Director with regard to a significantly undercapitalized enterprise or an action that results in the classification of an enterprise as significantly undercapitalized or critically undercapitalized, the court shall not have jurisdiction to stay, enjoin, or otherwise delay such classification or action taken by the Director pending judicial review of the action.

(c) **LIMITATION ON JURISDICTION.**—Notwithstanding any other provision of law, no court other than the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this title or to review, modify, suspend, terminate, or set aside such classification or action.

SEC. 211. RATINGS.

(a) **RATING.**—Not later than 1 year after the effective date of this Act, the Director shall,

for each enterprise, contract with 2 nationally recognized statistical rating organizations—

(1) to assess the likelihood that the enterprise will not be able to meet its obligations from its own resources with an assumption that there is no recourse to any implicit Government guarantee and to express that likelihood as a traditional credit rating; and

(2) to review the rating of the enterprise as frequently as the Director determines is appropriate, but not less than annually.

(b) **COMMENTS.**—The Director shall submit comments to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any difference between the evaluation of the rating organizations and that of the Office, with special attention to capital adequacy.

(c) **DEFINITION.**—For the purposes of this section, the term "nationally recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers.

SEC. 212. CAPITAL.

(a) **DEFINITION.**—The term "capital" shall be defined by the Director by regulation and—

(1) shall include, in accordance with generally accepted accounting principles—

(A) the par or stated value of outstanding common stock;

(B) the par or stated value of outstanding perpetual, noncumulative preferred stock;

(C) paid-in capital;

(D) retained earnings; and

(E) other equity instruments that the Director determines are appropriate; and

(2) for the purposes of section 201, may also include such other amounts that the Director determines are available to absorb losses subject to any limitation prescribed by the Director, and shall include loss reserves established in accordance with generally accepted accounting principles.

(b) **EXCLUSION.**—As defined by the Director, the term "capital" shall exclude any amounts that an enterprise could be required to pay, at the option of investors, to retire capital instruments.

TITLE III—ENFORCEMENT PROVISIONS

SEC. 301. CEASE-AND-DESIST PROCEEDINGS.

(a) **GROUNDS FOR ISSUANCE.**—The Director may issue and serve upon an enterprise or any director or executive officer a notice of charges if, in the opinion of the Director, the enterprise, director, or executive officer—

(1) is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, director, or executive officer will engage in conduct that, if continued, would be likely to cause or result in a material depletion of the enterprise's capital; or

(2) is violating or has violated, or the Director has reasonable cause to believe that the enterprise, director, or executive officer will violate—

(A) any provision of this Act or the enterprise's charter Act or any order, rule, or regulation thereunder;

(B) any condition imposed in writing by the Director pursuant to the Director's authority under this Act or a charter Act in connection with the approval of any application or other request by the enterprise required by this Act or a charter Act; or

(C) any written agreement entered into with the Director.

(b) **EXCEPTION FOR ADEQUATELY CAPITALIZED ENTERPRISES.**—The Director may serve a notice of charges or issue an order upon an enterprise, a director, or an executive officer for any conduct or violation that relates to the financial health or security of an enterprise that is adequately capitalized only if the Director determines that—

(1) the conduct or violation threatens to cause a significant depletion of the enterprise's capital; or

(2) the conduct or violation may result in the issuance of an order described in subsection (d)(1).

(c) **PROCEDURE.**—

(1) **NOTICE OF CHARGES.**—Any notice of charges shall contain a statement of the facts constituting the alleged conduct or violation, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue.

(2) **DATE OF HEARING.**—Such hearing shall be held not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the hearing officer at the request of any party served.

(3) **FAILURE TO APPEAR CONSTITUTES CONSENT.**—Unless the party served appears at the hearing personally or by a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order.

(4) **ISSUANCE OF ORDER.**—In the event of consent by the party, or if, upon the record made at any such hearing, the Director finds that any conduct or violation specified in the notice of charges has been established, the Director may issue and serve upon such party an order requiring the party to cease and desist from such conduct or violation and to take affirmative action to correct the conditions resulting from any such conduct or violation.

(5) **EFFECTIVE DATE OF ORDER.**—A cease-and-desist order shall become effective 30 days after service (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to the extent that it is stayed, modified, terminated, or set aside by action of the Director or a court of competent jurisdiction.

(d) **AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR PRACTICES.**—The authority under this section or section 302 to issue any order that requires a party to take affirmative action includes the authority—

(1) to require a director or executive officer to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 305(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the disposition of any asset;

(5) to require the rescission of agreements or contracts;

(6) to require the employment of qualified officers or employees (who may be subject to approval by the Director); and

(7) to require the taking of such other action as the Director determines appropriate.

(e) **AUTHORITY TO LIMIT ACTIVITIES.**—The authority under this section or section 302 to

issue an order includes the authority to place limitations on the activities or functions of the enterprise, or any director or executive officer.

(f) **CERTAIN ORDERS MAY CONTAIN CAPITAL CLASSIFICATION.**—The authority under this section or section 302 to issue an order includes the authority to—

(1) classify the enterprise as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) classify the enterprise as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; or

(3) classify the enterprise as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized;

if the Director determines that the enterprise is engaging or has engaged in conduct not approved by the Director or a violation, that may result in a rapid depletion of the capital of the enterprise.

SEC. 302. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) **GROUND FOR ISSUANCE; SCOPE.**—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, director, or executive officer pursuant to section 301, or the continuation thereof, is likely—

(1) to cause insolvency;

(2) to cause a significant depletion of the capital of the enterprise; or

(3) otherwise to cause irreparable harm to the enterprise,

prior to the completion of the proceedings conducted pursuant to section 301(c), the Director may issue a temporary order requiring the enterprise, or any director or executive officer, to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 301(d).

(b) **INCOMPLETE OR INACCURATE RECORDS.**—If a notice of charges served under section 301(a) specifies on the basis of particular facts and circumstances that the enterprise's books and records are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of that enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(1) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(2) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under section 301.

(c) **EFFECTIVE DATE OF ORDER.**—An order issued pursuant to this section shall—

(1) become effective upon service upon the party and shall remain effective unless set aside, limited, or suspended by a court in proceedings authorized by subsection (d),

(2) shall be enforceable pending the completion of the proceedings pursuant to such notice, and

(3) shall remain effective until the Director dismisses the charges specified in such notice or until superseded by a cease-and-desist order issued pursuant to section 301.

(d) **JUDICIAL REVIEW.**—Not later than 10 days after a party has been served with a

temporary cease-and-desist order pursuant to this section, the party may petition the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings.

(e) **ENFORCEMENT.**—In the case of a violation or a threatened violation of a temporary order issued pursuant to this section, the Director may apply to the United States District Court for the District of Columbia for an injunction to enforce such order.

SEC. 303. HEARINGS AND JUDICIAL REVIEW.

(a) **HEARING.**—Any hearing provided for in this title shall be on the record and held in the District of Columbia.

(b) **DECISION BY THE DIRECTOR.**—Not later than 90 days after the Director has notified the parties that the case has been submitted for final decision, the Director shall render the decision and shall issue and serve upon each party a copy of the order. The Director may modify an order prior to the filing of the record for judicial review.

(c) **JUDICIAL REVIEW.**—A party may obtain a review of an order issued under this title, except section 302, by filing in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service, a written petition seeking to modify, terminate, or set aside such order.

SEC. 304. JURISDICTION AND ENFORCEMENT.

(a) **APPLICATION FOR ENFORCEMENT.**—The Director may apply to the United States District Court for the District of Columbia for the enforcement of any order issued under title II or this title, and such court shall have jurisdiction and power to order and require compliance with such order.

(b) **LIMITATION ON JURISDICTION.**—Except as otherwise permitted by section 210 or in this title, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice, order, or penalty under title II or this title, or to review, modify, suspend, terminate, or set aside any such notice, order, or penalty.

SEC. 305. CIVIL MONEY PENALTIES.

(a) **IN GENERAL.**—The Director may impose a civil money penalty on an enterprise, director, or executive officer that—

(1) violates any provision of this Act or the enterprise's charter Act or regulation thereunder,

(2) violates any final order or temporary order issued pursuant to section 205, 206, 301, or 302,

(3) violates any condition imposed in writing by the Director pursuant to the authority under this Act or a charter Act, in connection with the approval of an application or other request by an enterprise required by law,

(4) violates any written agreement between an enterprise and the Director, or

(5) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) **AMOUNT OF PENALTY.**—

(1) **FIRST TIER.**—

(A) **IN GENERAL.**—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (4) of subsection (a). The amount of a civil penalty under this subparagraph shall be determined in light of the facts and circumstances, but shall not exceed \$5,000 for each day that a violation continues.

(B) **EXCEPTION.**—The amount of a civil penalty for a failure to make a good faith effort to comply with an approved housing plan under section 509 shall not exceed \$10,000.

(2) **SECOND TIER.**—The Director may impose a penalty on an enterprise, executive officer, or director in an amount not to exceed \$10,000 for an officer or director, or \$25,000 for an enterprise, for each day that such violation or conduct continues, if the Director finds that the violation or conduct described in subsection (a)—

- (A) is part of a pattern of misconduct, or
- (B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) **THIRD TIER.**—The Director may impose a penalty on an enterprise, executive officer, or director in an amount not to exceed \$100,000 for an officer or director, or \$1,000,000 for an enterprise, for each day that such violation or conduct continues, if the Director finds that the violation or conduct described in subsection (a) was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) **ASSESSMENT.**—

(1) **WRITTEN NOTICE.**—Any penalty imposed under this section may be assessed and collected by the Director by written notice.

(2) **PROHIBITION AGAINST REIMBURSEMENT OR INDEMNIFICATION.**—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(3) **FINALITY OF ASSESSMENT.**—If a hearing is not requested pursuant to subsection (f), the penalty assessment contained in a written notice shall constitute a final and unappealable order.

(d) **AUTHORITY TO MODIFY OR REMIT PENALTY.**—The Director may compromise, modify, or remit any penalty assessed under this section.

(e) **MITIGATING FACTORS.**—In determining the amount of any penalty under this section, the Director shall take into account the appropriateness of the penalty with respect to—

- (1) the financial resources and good faith of the enterprise, director, or executive officer charged;
- (2) the gravity of the violation;
- (3) the history of previous violations; and
- (4) such other matters as justice may require.

(f) **HEARING.**—A party against whom a penalty is assessed under this section shall be afforded a hearing if the party submits a request for such hearing not later than 20 days after the issuance of the notice of assessment.

(g) **COLLECTION.**—

(1) **REFERRAL.**—If the enterprise, director, or executive officer fails to pay a penalty that has become final, the Director may recover the amount assessed by filing an action in the United States District Court for the District of Columbia.

(2) **APPROPRIATENESS OF PENALTY NOT REVIEWABLE.**—In an action to collect the amount assessed, the validity and appropriateness of the penalty shall not be subject to review.

(h) **DEPOSIT.**—All penalties collected under authority of this section shall be deposited into the General Fund of the Treasury.

(i) **APPLICABILITY.**—This section shall apply only to conduct, a failure, a breach, or a violation that occurs on or after the effective date of this Act.

SEC. 306. NOTICE UNDER THIS TITLE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this title against any such di-

rector or executive officer, if such notice is served before the end of the 2-year period beginning on the date such director or executive officer ceased to be associated with the enterprise.

SEC. 307. PRIVATE RIGHTS OF ACTION.

Nothing in this Act creates a private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impairs any existing private right of action under other applicable law.

SEC. 308. SUBPOENA POWER.

(a) **POWERS.**—In the course of, or in connection with, any examination, administrative proceeding, claim, or investigation under this Act, the Director may—

- (1) administer oaths and affirmations,
- (2) take testimony under oath, and
- (3) issue, revoke, quash, or modify subpoenas issued by the Director.

(b) **JURISDICTION.**—The attendance of witnesses and the production of documents provided for in this section may be required from any place subject to the jurisdiction of the United States at any designated place where such examination or proceeding is being conducted.

(c) **ENFORCEMENT.**—The Director, in examining an enterprise, or any party to proceedings under this title may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) where the witness resides or carries on business, for enforcement of any subpoena issued pursuant to this section.

(d) **FEES AND EXPENSES.**—A witness subpoenaed under this section shall be paid the same fees that are paid witnesses in the district courts of the United States. A court having jurisdiction of a proceeding under this section may allow to any such witness such reasonable expenses and attorneys' fees as it determines just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

SEC. 309. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) **IN GENERAL.**—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this title and that has become final in accordance with section 303; and

(3) any modification to or termination of any final order made public pursuant to this paragraph.

(b) **HEARINGS.**—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) **DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.**—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) **DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.**—The Director

may file any document or part thereof under seal in any administrative enforcement hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) **RETENTION OF DOCUMENTS.**—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by the Director under this title or any other law.

(f) **DISCLOSURES TO CONGRESS.**—No provision of this section shall be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

TITLE IV—CONSERVATORSHIP

SEC. 401. APPOINTMENT OF CONSERVATOR.

(a) **APPOINTMENT.**—The Director may, after determining that alternative remedial actions are not satisfactory, appoint a conservator to take possession and control of an enterprise, whenever the Director determines that—

(1) the enterprise is in an unsafe or unsound condition to transact business, and the unsafe or unsound condition threatens the ability of the enterprise to continue as a viable concern or threatens to cause the depletion of substantially all of the capital of the enterprise;

(2) the enterprise has concealed or is concealing its books, papers, records, or assets, or has refused or is refusing to submit its books, papers, records, or affairs for inspection to any examiner or any lawful agent of the Director; or

(3) the enterprise has willfully violated or is willfully violating a cease-and-desist order which has become final.

(b) **APPOINTMENT BY CONSENT.**—The Director may appoint a conservator to take possession and control of an enterprise if the enterprise, by resolution of a majority of its board of directors or shareholders, consents to the appointment.

(c) **NOTICE AND HEARING.**—

(1) **IN GENERAL.**—Before appointing a conservator pursuant to subsection (a), the Director shall provide written notice to the enterprise of the basis for the Director's proposed action and shall provide the enterprise with an opportunity for a hearing on the record.

(2) **EXCEPTION.**—Notwithstanding paragraph (1), the Director may appoint a conservator without providing notice or a hearing to the enterprise, if the Director determines, pending completion of the proceedings under paragraph (1), that the conduct or violation by the enterprise is likely to—

(A) cause insolvency of the enterprise;

(B) cause a significant depletion of the capital of the enterprise; or

(C) otherwise cause irreparable harm to the enterprise; prior to the completion of such proceedings.

(d) **QUALIFICATIONS OF CONSERVATOR.**—The conservator may be—

- (1) the Director, or
- (2) any person, that—

(A) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest, and

(B) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(e) JUDICIAL REVIEW.—

(1) **IN GENERAL.**—Not later than 20 days after the initial appointment of a conservator pursuant to this section, the enterprise may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon consideration of the record, shall dismiss the action to terminate the appointment of the conservator or shall direct the Director to terminate the appointment of the conservator. If the conservator was appointed pursuant to subsection (c)(2), the court shall make such determination on the merits.

(2) **CONSENSUAL APPOINTMENTS.**—A consensual appointment of a conservator under subsection (b) is not subject to judicial review.

(3) **LIMITATION ON REMEDIES.**—Except as otherwise provided in this subsection, no court may take any action regarding the removal of a conservator, or restrain, or affect the exercise of powers or functions of, a conservator.

(f) **REPLACEMENT OF CONSERVATOR.**—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement is not subject to judicial review and shall not affect the enterprise's right under subsection (d) to obtain judicial review of the Director's original decision to appoint a conservator.

SEC. 402. POWERS OF A CONSERVATOR.**(a) POWERS.—**

(1) **IN GENERAL.**—A conservator has all the powers of the directors and officers of the enterprise unless the Director, in the order of appointment, limits the conservator's authority. In addition, a conservator has all the powers of shareholders that relate to the management of the enterprise, including the power to elect directors.

(2) **ADDITIONAL POWER.**—A conservator has the power to avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(3) **STAY.**—Not later than 45 days after appointment or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any action or proceeding to which the conservator or the enterprise is or may become a party, be stayed for a period not to exceed 45 days after the request.

(b) **EXPENSES.**—All expenses of a conservatorship shall be paid by the enterprise and shall be a lien upon the enterprise which shall have priority over any other lien.

SEC. 403. TERMINATION OF CONSERVATORSHIP.

(a) **IN GENERAL.**—At any time the Director determines that it may safely be done and that it would be in the public interest, the Director may terminate a conservatorship subject to such terms, conditions, and limitations as the Director may prescribe by written order.

(b) **ENFORCEMENT AS FINAL CEASE-AND-DEIST ORDER.**—Any terms, conditions, and limitations that the Director may prescribe under subsection (a) shall be enforceable under the provisions of section 304, to the same extent as an order issued pursuant to section 301 which has become final.

(c) **JUDICIAL REVIEW.**—Not later than 20 days after the date of the termination of the conservatorship or the imposition of an order under subsection (a), whichever is later, an enterprise may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the order.

SEC. 404. LIABILITY PROTECTION.

(a) **FEDERAL AGENCY AND EMPLOYEES.**—In a case in which the conservator is the Director, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the conservator's liability for acts or omissions performed in the course of the duties and responsibilities of the conservatorship.

(b) **OTHER CONSERVATORS.**—In a case in which the conservator is not the Director, the conservator shall not be liable for damages in tort or otherwise for acts or omissions performed in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or intentional tortious conduct.

(c) **INDEMNIFICATION.**—The Director shall have authority to indemnify the conservator on such terms as the Director determines proper.

SEC. 405. ENFORCEMENT OF CONTRACTS.

(a) **IN GENERAL.**—A conservator may enforce any contract described in subsection (b), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(b) **CONTRACTS ENFORCEABLE.**—If the Director—

(1) determines that the continued enforceability of a class of contracts is necessary to the achievement of the conservator's purpose; and

(2) specifically describes that class of contracts in a regulation or order issued for the purpose of this section; any contract that is within that class of contracts is enforceable under subsection (a).

(c) **APPLICABILITY.**—This section and the regulation or order issued under this section shall apply to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

TITLE V—HOUSING**SEC. 501. GENERAL AUTHORITY.**

(a) **IN GENERAL.**—The Director shall establish, by regulation, housing goals for each enterprise. The housing goals shall include a low- and moderate-income housing goal, a special affordable housing goal, and a central city, rural area, and other underserved areas housing goal. The Director shall implement this title in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) **ADJUSTMENT OF HOUSING GOALS.**—Except as otherwise set forth in this Act, the Director may, from year to year, adjust any housing goal established under this title.

(c) **COMPLIANCE WITH HOUSING GOALS.**—Any mortgage purchased by an enterprise shall simultaneously contribute to the achievement of each housing goal established under this title for which the mortgage purchase qualifies.

SEC. 502. LOW- AND MODERATE-INCOME HOUSING GOAL.

(a) **IN GENERAL.**—The Director shall establish an annual goal for the purchase of mortgages secured by housing for low- and moderate-income families.

(b) **TRANSITION RULE.**—

(1) **IN GENERAL.**—During the transition period, an interim target for low- and moderate-income mortgage purchases for each enterprise is established at 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) **ACHIEVEMENT OF THE INTERIM TARGET FOR LOW- AND MODERATE-INCOME MORTGAGE PURCHASES.**—During the transition period, the Director shall establish separate annual goals for each enterprise, the achievement of which would require, to the extent feasible, that—

(A) each enterprise improve its performance relative to the interim target, annually; and

(B) in the case of an enterprise that does not meet the interim target, the enterprise be prepared to meet the interim target in subsequent years.

(3) **DEFINITION.**—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(c) **FACTORS TO BE APPLIED BY THE DIRECTOR.**—In establishing the housing goal for an enterprise under this section, the Director shall take into account—

(1) appropriate economic, housing, and demographic data,

(2) the performance and effort of the enterprise toward achieving the goals in prior calendar years,

(3) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market,

(4) national housing needs,

(5) the ability of the enterprise to lead the industry in making mortgage credit available for low- and moderate-income families, and

(6) the need to maintain the sound financial condition of the enterprise.

(d) **USE OF BORROWER AND TENANT INCOME.**—

(1) **IN GENERAL.**—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) **AFFORDABILITY.**—For the purpose of paragraph (1)(B)(ii), a rent level is affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

SEC. 503. SPECIAL AFFORDABLE HOUSING GOAL.

(a) **ESTABLISHMENT OF SPECIAL AFFORDABLE HOUSING GOAL.**—

(1) **IN GENERAL.**—The Director shall establish an annual special affordable housing goal under this section that is not less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) **STANDARDS.**—In establishing an enterprise's special affordable housing goal, the Director shall take into account—

(A) data submitted to the Director in connection with the special affordable housing goal for previous years,

(B) the performance and effort of the enterprise toward achieving the special affordable housing goal in prior calendar years,

(C) national housing needs within the income categories set forth in this section,

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income families, and

(E) the need to maintain the sound financial condition of the enterprise.

(b) TRANSITION RULES.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASES FOR THE TRANSITION PERIOD.—During the transition period, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than \$2,000,000,000, with one-half of such purchases directed to 1-to-4 family housing and one-half to multifamily housing.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION MORTGAGE PURCHASES FOR THE TRANSITION PERIOD.—During the transition period, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than \$1,500,000,000, with one-half of such purchases directed to 1-to-4 family housing and one-half to multifamily housing.

(3) INCOME CHARACTERISTICS FOR TRANSITION PERIOD MORTGAGE PURCHASES.—

(A) MULTIFAMILY MORTGAGES.—Purchases of multifamily housing mortgages under paragraphs (1) and (2) shall be directed in the following proportions:

(i) 45 percent for multifamily housing affordable to families whose incomes do not exceed 80 percent of the median income for the area; and

(ii) 55 percent for multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to families whose incomes do not exceed 60 percent of the median income for the area.

(B) SINGLE FAMILY MORTGAGES.—Purchases of 1-to-4 family housing mortgages under paragraphs (1) and (2) shall be directed in the following proportions:

(i) 45 percent for mortgages for families whose incomes do not exceed 80 percent of the median income for the area and who live in census tracts in which the median income does not exceed 80 percent of the area median; and

(ii) 55 percent for mortgages for families whose incomes do not exceed 60 percent of the median income for the area.

(C) COMPLIANCE WITH SPECIAL AFFORDABLE HOUSING GOALS.—Only the portion of multifamily housing mortgage purchases by an enterprise that are attributable to units affordable to families whose incomes do not exceed 80 percent of the median income for the area shall be credited toward compliance with the special affordable housing goals set forth in subparagraph (A)(ii).

(4) DEFINITION.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on—

(A) in the case of an owner-occupied dwelling the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level is affordable

if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

SEC. 504. CENTRAL CITY, RURAL AREA, AND OTHER UNDERSERVED AREAS HOUSING GOAL.

(a) IN GENERAL.—The Director shall establish an annual goal for the purchase of mortgages secured by housing located in central cities, rural areas, and other underserved areas.

(b) TRANSITION RULE.—

(1) IN GENERAL.—During the transition period, an interim target for purchases of mortgages by each enterprise secured by housing located in central cities is established at 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) ACHIEVEMENT OF THE INTERIM TARGET FOR CENTRAL CITY MORTGAGE PURCHASES.—During the transition period, the Director shall establish separate annual goals for each enterprise, the achievement of which would require, to the extent feasible, that—

(A) each enterprise improve its performance relative to the interim target, annually; and

(B) in the case of an enterprise that does not meet the interim target, such enterprise be prepared to meet the interim target in subsequent years.

(3) DEFINITIONS.—

(A) TRANSITION PERIOD.—As used in this subsection, the term "transition period" means the 2-year period beginning on the date of enactment of this Act.

(B) CENTRAL CITY.—As used in this subsection, the term "central city" means any political subdivision designated as a central city by the Office of Management and Budget.

(c) FACTORS TO BE APPLIED BY THE DIRECTOR.—In establishing the housing goal for an enterprise under this section, the Director shall take into account—

(1) appropriate economic, housing, and demographic data,

(2) the performance and effort of the enterprise toward achieving the goals established under this section in prior calendar years,

(3) the size of the central city, rural area, and other underserved areas conventional mortgage market relative to the size of the overall conventional mortgage market,

(4) national urban needs,

(5) the ability of the enterprise to lead the industry in making mortgage credit available throughout the Nation, including central cities, rural areas, and other underserved areas, and

(6) the need to maintain the sound financial condition of the enterprise.

(d) LOCATION OF PROPERTIES.—The Director shall monitor each enterprise's performance in carrying out this section and shall evaluate that performance based on the location of the properties securing mortgages purchased by each enterprise.

SEC. 505. OTHER REQUIREMENTS.

To meet the low- and moderate-income housing goal under section 502, the special affordable housing goal under section 503, and the central city, rural area, and other underserved areas housing goal under section 504, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and

finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) help primary lenders make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions in meeting their obligations under the Community Reinvestment Act of 1977,

that include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

SEC. 506. MONITORING COMPLIANCE WITH HOUSING GOALS.

(a) IN GENERAL.—The Director shall establish guidelines to measure the extent of compliance with the housing goals established under this title. The guidelines may assign full credit, partial credit, or no credit toward compliance with the housing goals to different categories of mortgage purchase activities depending upon such criteria as the Director deems appropriate.

(b) SPECIAL AFFORDABLE HOUSING GOALS.—

(1) ACTIVITIES THAT SHALL RECEIVE FULL CREDIT TOWARD COMPLIANCE WITH GOALS.—The Director shall give full credit toward compliance with the special affordable housing goals to the following activities:

(A) The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or other Federal agency; and

(ii) participation of an enterprise substantially enhances the affordability of the housing securing such mortgages.

(B) The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet the special affordable housing goals; and

(ii) such purchases or refinancings support additional lending for housing serving low-income families.

(C) The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans are—

(i) not guaranteed by the agencies themselves or other Federal agencies; and

(ii) made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers.

(2) EXCLUSION.—No credit toward compliance with the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of existing enterprise portfolios.

SEC. 507. DATA COLLECTION AND REPORTING REQUIREMENTS FOR THE ENTERPRISES.

(a) SINGLE FAMILY DATA.—

(1) IN GENERAL.—Each enterprise shall collect, maintain, and provide to the Director, in a useful form, data relating to its single family mortgages. Such data shall include—

(A) the income, census tract location, race, and gender of mortgagors;

(B) the loan-to-value ratios of purchased mortgages at the time of origination;

(C) whether a particular mortgage purchased is newly originated or seasoned;

(D) the number of units (1-to-4 family) and whether they are owner-occupied; and

(E) other characteristics deemed appropriate by the Director, to the extent practicable.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The data required to be collected under this subsection shall cover single family mortgages purchased after the date determined by the Director, but not later than December 31, 1992.

(B) SEASONED MORTGAGES.—For mortgages purchased after the date referred to in subsection (a) but originated before that date, only data available to the enterprise is required to be collected under this subsection.

(b) MULTIFAMILY DATA.—

(1) IN GENERAL.—Each enterprise shall collect, maintain, and provide to the Director, in a useful form, data relating to its multifamily housing mortgages. Such data shall include—

(A) census tract location,

(B) tenant income levels and characteristics (to the extent practicable),

(C) rent levels,

(D) mortgage characteristics (such as number of units financed per mortgage and size of loans),

(E) mortgagor characteristics (such as non-profit, for-profit, limited equity cooperatives),

(F) use of funds (such as new construction, rehabilitation, refinancing),

(G) type of originating institution, and

(H) other information deemed appropriate by the Director, to the extent practicable.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The data required to be collected under this subsection shall cover multifamily mortgages purchased after the date determined by the Director, but not later than December 31, 1992.

(B) SEASONED MORTGAGES.—For mortgages purchased after the date referred to in subparagraph (A) but originated before that date, only data available to the enterprise is required to be collected under this subsection.

(c) PUBLIC ACCESS TO DATA.—

(1) IN GENERAL.—The Director shall make the data required by subsections (a) and (b) available to the public in useful forms, including forms accessible by computers.

(2) ACCESS.—

(A) PROPRIETARY DATA.—The Director may not make available to the public data that the Director determines are proprietary pursuant to section 515.

(B) EXCEPTION.—The Director shall not restrict access to the data provided in accordance with subsection (a)(1)(A).

(3) FEES.—The Director may charge reasonable fees to cover the cost of making the data available to the public.

(d) ANNUAL REPORT.—

(1) IN GENERAL.—Each enterprise shall submit to the Congress and the Director a report on its activities under this title.

(2) CONTENTS.—The report referred to in paragraph (1) shall—

(A) include in aggregate form and by appropriate category, the dollar volume and number of mortgages purchased for owner-occupied and rental properties related to each of the annual housing goals;

(B) include in aggregate form and by appropriate category, the number of families served, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (based on availability of information), the characteristics of the census tracts, and the geographic distribution of the housing financed;

(C) include the extent to which the mortgages purchased by the enterprise have been

used in conjunction with public subsidy programs under Federal law;

(D) include the proportion of single family mortgages purchased that have been made to first-time homebuyers, as soon as providing such data is practicable and identify any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

(E) include in aggregate form and by appropriate category the data reported under subsection (a)(1)(B);

(F) level of securitization versus portfolio activity;

(G) assess the underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

(H) describe trends in both the primary and secondary multifamily markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by each enterprise, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by each enterprise, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

(J) describe in the aggregate its seller servicer network, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

(K) describe the activities undertaken with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how its activities support the objectives of local comprehensive housing affordability strategies; and

(L) contain any other information deemed relevant by the Director.

(3) AVAILABILITY OF REPORTS.—

(A) IN GENERAL.—Each enterprise shall make the reports under this subsection available to the public at the principal and regional offices of the enterprise.

(B) EXCLUSION OF PROPRIETARY DATA.—Information that is contained in any report that the Director has determined is proprietary shall be subject to the provisions of section 515.

SEC. 508. ANNUAL REPORT OF THE DIRECTOR.

(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 507(d), the Director shall submit a report, as part of its report under section 109 of this Act, on the extent to which each enterprise is achieving the specified annual goals and general purposes established by law.

(b) CONTENTS.—The report shall—

(1) aggregate and analyze census tract data to assess each enterprise's compliance with the central city, rural area, and other underserved areas housing goal and to show levels of business in central cities, rural areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Director;

(2) aggregate and analyze data on income to assess each enterprise's compliance with

the low and moderate and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken and could undertake regarding underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures to promote and expand the annual goals specified under sections 502, 503, and 504, as well as the general purposes established by law;

(5) review trends in both the primary and secondary multifamily markets, describing—

(A) the availability of mortgage credit and liquidity; and

(B) the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken with respect to originators found to violate fair lending procedures.

SEC. 509. COMPLIANCE.

(a) IN GENERAL.—The Director shall monitor and enforce compliance with the goals established under sections 502, 503, and 504.

(b) NOTICE AND HEARING.—If the Director determines that an enterprise has failed to meet, or that there is a substantial probability that an enterprise will fail to meet, any goal established under section 502, 503, or 504, the Director shall provide written notice to the enterprise and an opportunity to review and supplement the administrative record at an administrative hearing.

(c) HOUSING PLANS.—

(1) PLAN REQUIRED.—If the Director finds, after any hearing pursuant to subsection (b), that the achievement of the housing goal was feasible, after consideration of market and economic conditions, the Director shall require the enterprise to submit a housing plan for approval by the Director.

(2) CONTENTS.—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next succeeding calendar year; or

(B) in a case when the Director determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of that year. The plan shall contain sufficient specificity to enable the Director to monitor compliance periodically.

(3) DEADLINES FOR SUBMISSION.—The Director shall establish a deadline for submission of a housing plan that is not more than 45 days after the enterprise is notified in writing that a plan is required. The Director may extend the deadline for a specified period of time.

(4) APPROVAL.—The Director shall approve or disapprove a plan within 30 days. The Director shall approve any plan that the Director determines is likely to succeed, and conforms with the relevant charter act and this Act and other applicable law and regulation. The Director may extend the period for approval or disapproval for an additional 30 days.

(5) DISAPPROVAL.—If the housing plan initially submitted by the enterprise is disapproved, the Director shall provide written notice of the reasons therefor, and shall require the enterprise to submit, with a rea-

sonable period of time, but not more than 30 days unless the Director determines that a longer period is in the public interest, an amended housing plan acceptable to the Director.

(6) HEARING.—If the Director disapproves a housing plan, the Director shall provide the enterprise with an opportunity to review and supplement the administrative record in an administrative hearing.

(d) ENFORCEMENT.—

(1) IN GENERAL.—If the Director determines that an enterprise has failed to make a good faith effort to comply with an approved housing plan, the Director—

(A) may, under section 301, issue and serve upon the enterprise an order to comply with the housing plan; and

(B) may, under section 305, assess and collect from the enterprise a civil penalty.

(2) LIMITATION.—The Director shall not, for failure to comply with an approved housing plan—

(A) issue any order under section 301, except as described in paragraph (1)(A); or

(B) assess any civil penalty under section 305, except as described in paragraph (1)(B).

(3) ADDITIONAL TRANSITION PERIOD LIMITATION.—The Director shall take no actions described in paragraph (1) during the 2-year period following the date of enactment of this Act unless the Director determines that the enterprise has blatantly disregarded an approved housing plan.

(e) TRANSITION PERIOD REPORTS AND HEARINGS.—

(1) REPORTS.—Within 45 days of the establishment of any housing goals required by this title during the 2-year period following the date of enactment, each enterprise shall submit to the Director, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report describing the actions the enterprise plans to take in order to meet such goals.

(2) HEARINGS.—Not later than 45 days after the submission of a report under paragraph (1), the chief executive officers of the enterprises shall, if requested, appear before each committee referred to in paragraph (2) to explain the proposed actions described in their respective plans.

(f) AUDIT POWERS.—The Director or the Comptroller General of the United States, at the request of the Director or any Member of Congress, is authorized to examine records and audit reports to the extent necessary to assess compliance with—

(1) the goals established under sections 502, 503, and 504,

(2) any other goals established by the Director to achieve the charter purposes of an enterprise, and

(3) any housing plan approved under this section.

SEC. 510. ADVISORY COUNCIL.

(a) IN GENERAL.—Not later than 4 months after the date of enactment of this Act, each enterprise shall appoint an Affordable Housing Advisory Council to advise it regarding possible methods for promoting affordable housing for low- and moderate-income families.

(b) MEMBERSHIP.—Each Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.

SEC. 511. GEOGRAPHIC DISTRIBUTION.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by inserting before paragraph (5), as redesignated, the following:

"(4) promote access to mortgage credit throughout the Nation (including central cities and rural areas) by increasing the liquidity of mortgage investments, including facilitating credit secured by mortgages to secondary market participants, and improving the distribution of investment capital available for residential mortgage financing; and"

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) to promote access to mortgage credit throughout the Nation (including central cities and rural areas) by increasing the liquidity of mortgage investments, including facilitating credit secured by mortgages to secondary market participants, and improving the distribution of investment capital available for residential mortgage financing."

SEC. 512. MULTIFAMILY MORTGAGE ACTIVITIES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential".

SEC. 513. BOARD OF DIRECTORS QUALIFICATIONS.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—

(1) MEMBER WITH A DEMONSTRATED COMMITMENT TO LOW-INCOME HOUSING.—Section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting in the second sentence after "lending industry," the following: "at least one person who has demonstrated a career commitment to the provision of housing for low-income households."

(2) APPLICABILITY.—The amendment made by subsection (a)(1) shall apply to the annual appointments made by the President of members to the Board of Directors of the Federal National Mortgage Association that occur after the date of the enactment of this Act.

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—

(1) MEMBER WITH A DEMONSTRATED COMMITMENT TO LOW-INCOME HOUSING.—Section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended by inserting in the second sentence after "lending industry," the following: "at least 1 person who has demonstrated a career commitment to the provision of housing for low-income households."

(2) APPLICABILITY.—The amendment made by subsection (b)(1) shall apply to the annual

appointments made by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occur after the date of the enactment of this Act.

SEC. 514. FAIR HOUSING.

The Director shall—

(1) subject to the Secretary's general authority to enforce the Fair Housing Act, by regulation prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) subject to the Secretary's general authority to enforce the Fair Housing Act, by regulation require each enterprise to have single family mortgage and multifamily mortgage underwriting and appraisal guidelines that prohibit the use of lending criteria or the exercise of lending policies by mortgage lenders that sell mortgages to the enterprise, that have the effect of discriminating on the basis of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(3) by regulation, require an enterprise to submit certain data to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act or the Equal Credit Opportunity Act;

(4) periodically review and comment on each enterprise's underwriting and appraisal guidelines;

(5) seek information from other regulatory and enforcement agencies regarding violations by lenders of the laws referred in paragraph (3) and make that information available to enterprises; and

(6) direct an enterprise to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against those lenders that have in a final adjudication or an administrative hearing on the record in accordance with subchapter II of chapter 5 of title 5, United States Code, been found to have engaged in discriminatory lending practices in violation of this subsection, the Fair Housing Act, or the Equal Credit Opportunity Act.

SEC. 515. PROHIBITION ON PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.

(a) IN GENERAL.—The Director may determine, by regulation or order, information that will be accorded treatment as proprietary information. The Director shall not provide public access to, or disclose to the public, information required to be submitted by an enterprise under section 507 that the Director determines is proprietary.

(b) EFFECTIVE DATE OF ORDER.—Any order issued under subsection (a) shall not become effective until 10 days after its issuance.

(c) NONDISCLOSURE PENDING CONSIDERATION.—Nothing in this section authorizes the disclosure to, or examination of data by, the public or a representative of any person or agency, pending the issuance of a final decision under this section.

TITLE VI—CHARTER ACT AMENDMENTS

SEC. 601. AMENDMENTS TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) REMOVAL AUTHORITY OF THE PRESIDENT.—Section 308(b) of the Federal National

Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended in the third sentence after "any such" by inserting "appointed".

(b) GAO AUDITS.—The first sentence of section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended to read as follows: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."

(c) CONSTRUCTION.—Section 309(i) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended to read as follows:

"(i) CONSTRUCTION.—The powers conferred on the corporation by this title shall be exercised in accordance with the goals and purposes of the Federal Housing Enterprises Regulatory Reform Act of 1992. If the provisions of this title conflict with the provisions of the Federal Housing Enterprises Regulatory Reform Act of 1992, the provisions of that Act shall control."

(d) CAPITALIZATION.—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) FEES AND EARNINGS.—

"(1) FEES AND CHARGES.—The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

"(2) EARNINGS; GENERAL SURPLUS.—All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves."

(3) by striking subsection (c) and inserting the following new subsection:

"(c) DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the corporation may make such capital distributions as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

"(2) ADEQUATE CAPITALIZATION REQUIRED.—The corporation may not make any capital distributions that would decrease the capital of the corporation, as such term is defined under section 212 of the Federal Housing Enterprises Regulatory Reform Act of 1992 to an amount less than that sufficient to be classified as adequately capitalized under section 204 of such Act, without prior written approval of the Director of the Office of Federal Housing Enterprise Oversight."; and

(4) in subsection (f)—

(A) by striking "to make payments" and all that follows through "such capital contributions."; and

(B) by striking "additional shares of such stock," and inserting "shares of common stock of the corporation".

(e) RATIO OF OBLIGATIONS.—

(1) IN GENERAL.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(A) in subsection (b), by striking the semicolon in the first sentence and all that fol-

lows through the end of the second sentence and inserting a period; and

(B) in subsection (e), by striking the fourth sentence.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect when the first classifications are made under section 204(b).

(f) ASSESSMENTS FOR THE OFFICE OF SECONDARY MARKET OVERSIGHT.—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting after "section 309(g)" the following: "of this Act and section 105 of the Federal Housing Enterprises Regulatory Reform Act of 1992".

(g) COMPENSATION.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking "as it may determine" and inserting the following: "as the board of directors determines reasonable and comparable with compensation for employment in positions in comparable publicly held financial institutions involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation"; and

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

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Congress on—

"(i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses,

"(ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and

"(iii) the comparability of the corporation's financial performance with the performance of other similar businesses.

The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) The corporation may not enter into any agreement to provide any payment of money or other thing of value in connection with the termination of employment of any executive officer of the corporation, unless such agreement is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight. Any such payment made pursuant to any agreement entered into between July 24, 1991, and the date of enactment of the Federal Housing Enterprises Regulatory Reform Act of 1992 may be cancelled unless such agreement is approved by the Director. The Director may not approve any such agreement unless the Director determines that the benefits provided under the agreement are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after July 24, 1991, to any such agreement entered into on or before such date shall be considered entering into an agreement.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning

given the term in section 3 of the Federal Housing Enterprises Regulatory Reform Act of 1992."

(h) GENERAL REGULATORY POWERS.—Section 309(h) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(h)) is repealed.

(i) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(j) APPROVAL.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)) is amended—

(1) in paragraph (2), by striking "and with the approval of the Secretary of Housing and Urban Development,"; and

(2) in paragraphs (3) and (4), by striking "with the approval of the Secretary of Housing and Urban Development,".

SEC. 602. AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.—Section 305(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(c)) is repealed.

(b) REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

(c) CONSTRUCTION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended by adding at the end the following subsection:

"(h) CONSTRUCTION.—The powers conferred by this title on the Corporation shall be exercised in accordance with the goals and purposes of the Federal Housing Enterprises Regulatory Reform Act of 1992. If the provisions of this title conflict with the provisions of the Federal Housing Enterprises Regulatory Reform Act of 1992, the provisions of that Act shall control."

(d) GAO AUDITS.—The first sentence of section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended to read as follows: "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."

(e) POWERS OF THE CORPORATION.—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second and third sentences.

(f) REMOVAL AUTHORITY OF PRESIDENT.—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: "except that any appointed member may be removed from office by the President for good cause".

(g) GENERAL REGULATORY POWERS.—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended—

(1) by striking paragraphs (1) and (2);

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the Corporation may make such capital distributions as may be declared by the Board of Directors.

"(B) The Corporation may not make any capital distributions that would decrease the capital of the Corporation (as such term is defined in section 212 of the Federal Housing Enterprises Regulatory Reform Act of 1992)

to an amount less than that sufficient to be classified as adequately capitalized under section 204 of such Act, without prior written approval of the Director of the Office of Federal Housing Enterprise Oversight." and

(3) by striking paragraphs (4), (6), (7), and (8).

(h) RATIO OF CAPITAL AND OBLIGATIONS.—Effective upon the first classification made under section 204(b), section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended by striking paragraph (5).

(i) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in positions in comparable publicly held financial institutions involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (1)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(i)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Congress on—

"(A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses,

"(B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and

"(C) the comparability of the Corporation's financial performance with the performance of other similar businesses.

The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

"(2) Notwithstanding the first sentence of subsection (c), the Corporation may not enter into any agreement to provide any payment of money or other thing of value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight. Any such payment made pursuant to any agreement entered into between July 24, 1991, and the date of enactment of the Federal Housing Enterprises Regulatory Reform Act of 1992 may be cancelled unless such agreement is approved by the Director. The Director may not approve any such agreement unless the Director determines that the benefits provided under the agreement are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after July 24, 1991, to any such agreement entered into on or before such date shall be considered entering into an agreement.

"(3) For purposes of this subsection, the term 'executive officer' has the meaning given the term in section 3 of the Federal

Housing Enterprises Regulatory Reform Act of 1992."

(j) CAPITAL STOCK.—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) in subsection (a)(1), by striking "The common stock" and all that follows and inserting the following: "The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.";

(2) in subsection (a)(2)—

(A) in the first sentence, by striking "non-voting common stock and the"; and

(B) by striking the last sentence; and

(3) by striking subsections (b), (c), and (d).

(k) MORTGAGE SELLERS.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking "from any Federal home loan bank" and all that follows through the end of the sentence.

(2) in the second sentence, by striking "and the servicing" and all that follows through the end of the sentence and inserting a period.

(l) DEFINITION OF "RESIDENTIAL MORTGAGE".—Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended in the third sentence by striking "made" and all that follows through "305(a)(1)" and inserting "or purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

TITLE VII—REGULATION OF FEDERAL HOME LOAN BANK SYSTEM

SEC. 701. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

"(i) to supervise the Federal Home Loan Banks;

"(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

"(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets."

SEC. 702. STUDY REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) IN GENERAL.—The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study regarding the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The appropriate relationship between the capital standards for the Federal Home

Loan Banks and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The appropriate relationship between the capital standards for federally insured depository institutions and the capital standards under this Act for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, especially with regard to similar kinds of on-balance sheet and off-balance sheet assets and obligations.

(4) The advantages and disadvantages of expanding the credit products and services of the Federal Home Loan Banks, including a determination of the desirability of—

(A) the purchase by Federal Home Loan Banks of housing-related assets from member institutions, and

(B) the provision by Federal Home Loan Banks of credit enhancements and other products to members in addition to advances.

(5) The advantages and disadvantages of expanding eligible collateral for advances by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the Federal Home Loan Bank System in housing finance.

(7) The advantages and disadvantages of further measures to increase membership in, and increase the profitability of, the Federal Home Loan Bank System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the advance limit imposed on Federal Home Loan Banks to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, the Bank Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.

(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this Act and the enterprises' charters.

(b) **REPORTS.**—Not later than 9 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Congress a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) **COMMENTS.**—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall submit to the Congress any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) **DEFINITION.**—For purposes of this section the term "housing-related assets" means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

SEC. 703. REPORTS OF FEDERAL HOME LOAN BANKS.

Not later than 9 months after the date of enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Congress a report of the directors' evaluation of the costs and benefits of consolidation of the Federal Home Loan Bank System.

SEC. 704. REPORTS OF FEDERAL HOME LOAN BANK MEMBERS.

(a) **IN GENERAL.**—Not later than 45 days after the date of enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall elect 2 persons who are officers or directors of stockholder institutions of the Federal Home Loan Bank to serve on a panel to be called the "Study Committee".

(b) **STUDY AND REPORT.**—The Study Committee referred to in subsection (a) shall conduct a study on the topics listed in section 702(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 9 months after the date of enactment of this Act, the Study Committee shall submit a report to the Congress, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

SEC. 705. FULL-TIME STATUS OF FHLB MEMBERS.

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) **BOARD STATUS.**—All directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis beginning on January 1, 1994."

SEC. 706. EXCEPTION TO REQUIREMENTS FOR ADVANCES UNDER THE FEDERAL HOME LOAN BANK ACT.

Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before "Each" the following:

"(a) **IN GENERAL.**—"; and

(2) by adding at the end the following new subsection:

"(b) **EXCEPTION.**—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

"(1) such advance otherwise meets the requirements of this subsection; and

"(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages."

TITLE VIII—STUDY OF NATIONAL CONSUMER COOPERATIVE BANK

SEC. 801. STUDY OF NATIONAL CONSUMER COOPERATIVE BANK.

(a) **IN GENERAL.**—The Comptroller General of the United States shall conduct a study of—

(1) the extent to which the National Consumer Cooperative Bank has achieved its statutory purposes as set forth in the National Consumer Cooperative Bank Act (12 U.S.C. 3001 et seq.) (hereafter in this title referred to as the "Bank Act"); and

(2) the financial safety and soundness of the activities of the Bank and its affiliates.

(b) **SPECIFIC REQUIREMENTS.**—In conducting the study, the Comptroller General shall examine and evaluate—

(1) the degrees and types of risks that are undertaken by the Bank in the course of its and its affiliates' operations, including credit risk, interest rate risk, management and operational risk, and business risk;

(2) the actual level of risk that exists with respect to the Bank and its affiliates, which shall take account of the volume of debt securities issued by the Bank to the Secretary of the Treasury;

(3) the appropriateness of establishing a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates, including the application of capital standards to the Bank;

(4) the costs and benefits to the public from establishment of a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates, and the impact of such a structure on the capability of the Bank to carry out its purposes under law and the Bank's viability, including the ability of the Bank to obtain funding in the private capital markets;

(5) the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of the Bank and its affiliates and the financial risks associated with such activities;

(6) the extent to which the Bank has served all types of its eligible borrowers, including consumer cooperatives, self-help cooperatives, and cooperatives serving low-income families;

(7) the extent to which the Bank directly or indirectly has provided technical assistance to all types of its eligible borrowers;

(8) whether the benefit to the Bank of below-market rates of interest on the debt issued by the Bank to the Secretary of the Treasury was utilized and allocated in a manner consistent with the Bank Act;

(9) whether the Bank's compensation of its executive officers has been excessive;

(10) whether the manner in which the Bank has allocated voting rights to its eligible borrowers has conformed with the Bank Act;

(11) whether the Bank otherwise has acted in a manner consistent with the achievement of its purposes and mission under the Bank Act; and

(12) whether the purposes and mission of the Bank under the Bank Act should be modified in light of any changes in the availability to the Bank's eligible borrowers of credit from sources other than the Bank, changes in the economy, and other factors.

(c) **PREPARATION OF REPORT.**—In conducting the study required by this section, among other matters, the Comptroller General shall take account of—

(1) the examination reports on the Bank prepared by the Farm Credit Administration;

(2) any audits of the Bank by the Comptroller General;

(3) the annual reports of the Bank to the Congress and the annual and quarterly reports and registration statements filed by the Bank with the Securities and Exchange Commission;

(4) any written communications of any kind of the Farm Credit Administration or the Comptroller General to the Congress with respect to the Bank or its affiliates;

(5) the examination reports on the Bank or its affiliates prepared by the Office of Thrift Supervision or the appropriate official of the State of Ohio; and

(6) the views of interested members of the public, including eligible borrowers from the Bank.

(d) **REPORT TO CONGRESS.**—Within 6 months after enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall set forth—

(1) the results of the study under this section;

(2) any recommendations of the Comptroller General with respect to—

(A) the establishment of a more comprehensive structure of safety and soundness regulation of the Bank and its affiliates;

(B) the appropriate capital standards for the Bank; and

(C) the appropriate regulatory agency for the Bank;

(3) any recommendations of the Comptroller General with respect to—

(A) the manner in which the Bank is carrying out its purposes and mission under the Bank Act;

(B) whether the Bank's purposes and mission under the Bank Act should be changed; and

(C) whether the Bank Act should be otherwise amended; and

(4) any recommendations and opinions of the Secretary of the Treasury regarding the report and, to the extent that the recommendations and views of such officers or agencies differ from the recommendations and opinions of the Comptroller General, any recommendations and opinions of the Farm Credit Administration and the Office of Thrift Supervision regarding the report.

(e) **CONSULTATION AND COOPERATION WITH OTHER AGENCIES.**—The Comptroller General shall determine the structure and methodology of the study under this section in consultation with the Secretary of the Treasury, the Farm Credit Administration, the Director of the Office of Thrift Supervision, and the Bank.

(f) **ACCESS TO RELEVANT INFORMATION.**—The Bank shall provide or cause to be provided

full and prompt access to the Comptroller General to the books and records of the Bank and any affiliate of the Bank and shall promptly provide or cause to be provided any other information requested by the Comptroller General. Any information provided by the Bank or any affiliate of the Bank to the Comptroller General that concerns customer relationships and that is confidential in nature shall be retained in confidence by the Comptroller General and shall not be disclosed to the public. In conducting the study under this section, the Comptroller General may request information from, or the assistance of, any department or agency of the Federal Government or of the State of Ohio that is or was authorized by law to examine or supervise any activities of the Bank or any affiliate of the Bank.

TITLE IX—MISCELLANEOUS

Subtitle A—Miscellaneous

SEC. 901. PRIVATIZATION STUDY.

(a) **IN GENERAL.**—The Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall conduct a study of the desirability and feasibility of eliminating the Federal sponsorship of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(b) **SPECIFIC REQUIREMENTS.**—In conducting the study, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall consider and evaluate—

(1) the legal requirements of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and the costs to the enterprises if such Federal sponsorship were removed;

(2) the cost of capital to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation with the removal of Federal sponsorship;

(3) the costs to home ownership and the impact on housing affordability and availability of the removal of Federal sponsorship;

(4) the level of competition which might be available in the private sector with the removal of Federal sponsorship;

(5) the potential effect on the cost and availability of residential housing finance of the enactment of bank reforms that would enable banks to enter the securities business;

(6) whether increased amounts of core capital would be necessary with the removal of Federal sponsorship;

(7) the impact of removal of Federal sponsorship upon the secondary market for residential loans and the liquidity of such loans;

(8) the impact of removal of Federal sponsorship upon the risk weighting of assets of insured depository institutions; and

(9) any other factor which the Comptroller General of the United States, the Director of the Congressional Budget Office, or the Secretary of the Treasury deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(c) **REPORT TO CONGRESS.**—Within 2 years after the date of enactment of this Act, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall set forth—

(1) a summary of the findings under this section;

(2) recommendations to the Congress on the removal of Federal sponsorship, if deemed to be feasible and desirable, which shall include suggestions for an appropriate time frame in which to withdraw Federal sponsorship.

(d) **VIEWS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION AND THE FEDERAL HOME LOAN MORTGAGE CORPORATION.**—

(1) **CONSIDERATION OF VIEWS.**—In conducting the study under this section, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of the Treasury shall consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may report directly to the Congress on the enterprises' own analysis of the desirability and feasibility of the removal of Federal sponsorship.

SEC. 902. HOUSING ASSISTANCE IN JEFFERSON COUNTY, TEXAS.

Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such project is located as being included within the Park Central New Town in Town Project." and inserting "Jefferson County, Texas."

SEC. 903. APPLICABILITY OF SHELTER PLUS CARE.

Section 811 of the Cranston-Gonzalez Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) in subsection (b), by striking "private,"; and

(2) in paragraphs (5) and (6) of subsection (k), by striking "private" each place it appears.

SEC. 904. ADJUSTABLE RATE MORTGAGE CAPS.

Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3906(d)(2)) is amended by striking "any loan" and inserting "any home purchase or other consumer loan".

SEC. 905. COMMUNITY DEVELOPMENT AUTHORITY OF BANKS.

(a) **NATIONAL BANKS.**—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end the following new paragraph:

"ELEVENTH.—To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In

no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund."

(b) **STATE MEMBER BANKS.**—Section 9 of the Federal Reserve Act (12 U.S.C. 321-338) is amended by adding at the end the following new paragraph:

"State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board of Governors shall limit a bank's investments in any 1 project and a bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the bank is adequately capitalized.

"In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund."

SEC. 906. SENSE OF THE SENATE.

(a) **FINDINGS.**—The Congress finds that—

(1) the two housing Government-sponsored enterprises, the Federal National Mortgage Association (hereafter in this section referred to as "Fannie Mae") and the Federal Home Loan Mortgage Corporation (hereafter in this section referred to as "Freddie Mac") have issued or guaranteed nearly \$900,000,000,000 of securities which are currently outstanding;

(2) Fannie Mae and Freddie Mac are privately owned, profitmaking enterprises whose securities are viewed by investors as having an implicit Federal guarantee;

(3) investor perception of a Federal guarantee, as the savings and loan crisis demonstrates, removes market discipline, reduces incentives to maintain strong capital positions, and distorts financial decisions;

(4) the outstanding obligations of Fannie Mae and Freddie Mac exceed those in the entire savings and loan industry;

(5) the existing regulatory structure and oversight of the Fannie Mae and Freddie Mac has been inadequate;

(6) history has shown that a regulator charged with protecting taxpayer dollars must be independent of other policymaking entities;

(7) this Act takes concrete steps to establish safety and soundness regulation of Fannie Mae and Freddie Mac;

(8) this Act creates an independent regulatory office, the Office of Federal Housing Enterprise Oversight, in the Department of Housing and Urban Development; and

(9) the independence of the Office cannot be compromised without impairing the ability of the regulator to ensure that the Fannie Mae and Freddie Mac are adequately capitalized and operating safely.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that any final Government-

sponsored enterprise legislation should make it clear that the independence of the regulator overseeing the safety and soundness of Fannie Mae and Freddie Mac should not be compromised.

SEC. 907. 4-MONTH EXTENSION OF TRANSITION RULE FOR SEPARATE CAPITALIZATION OF SAVINGS ASSOCIATIONS' SUBSIDIARIES.

Section 5(t)(5)(D)(ii) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(t)(5)(D)(ii)) is amended—

(1) by striking "June 30, 1992" and inserting "October 31, 1992"; and

(2) by striking "July 1, 1992" and inserting "November 1, 1992".

SEC. 908. CREDIT CARD SALES.

(a) IN GENERAL.—Section 11(e) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)) is amended by adding at the end the following new paragraphs:

"(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

"(A) NOTIFICATION REQUIRED.—An undercapitalized insured depository institution (as defined in section 38) shall notify the Corporation in writing before entering into an agreement to sell credit card accounts receivable.

"(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

"(i) determines that the waiver is in the best interests of the deposit insurance fund; and

"(ii) provides a written waiver to the selling institution.

"(C) EFFECT OF WAIVER ON SUCCESSORS.—

"(i) IN GENERAL.—If, under subparagraph (B), the Corporation has waived its right to repudiate an agreement to sell credit card accounts receivable—

"(I) any provision of the agreement that restricts solicitation of a credit card customer of the selling institution, or the use of a credit card customer list of the institution, shall bind any receiver or conservator of the institution; and

"(II) the Corporation shall require any acquirer of the selling institution, or of substantially all of the selling institution's assets or liabilities, to agree to be bound by a provision described in subclause (I) as if the acquirer were the selling institution.

"(ii) EXCEPTION.—Clause (i)(II) does not—

"(I) restrict the acquirer's authority to offer any product or service to any person identified without using a list of the selling institution's customers in violation of the agreement;

"(II) require the acquirer to restrict any preexisting relationship between the acquirer and a customer; or

"(III) apply to any transaction in which the acquirer acquires only insured deposits.

"(D) WAIVER NOT ACTIONABLE.—The Corporation shall not, in any capacity, be liable to any person for damages resulting from waiving or failing to waive the Corporation's right under this section to repudiate any contract or lease, including an agreement to sell credit card accounts receivable. No court shall issue any order affecting any such waiver or failure to waive.

"(E) OTHER AUTHORITY NOT AFFECTED.—This paragraph does not limit any other authority of the Corporation to waive the Corporation's right to repudiate an agreement or lease under this section.

"(15) CERTAIN CREDIT CARD CUSTOMER LISTS PROTECTED.—

"(A) IN GENERAL.—If any insured depository institution sells credit card accounts receivable under an agreement negotiated at arm's length that provides for the sale of the institution's credit card customer list, the Corporation shall prohibit any party to a transaction with respect to the institution under this section or section 13 from using the list except as permitted under the agreement.

"(B) FRAUDULENT TRANSACTIONS EXCLUDED.—Subparagraph (A) does not limit the Corporation's authority to repudiate any agreement entered into with the intent to hinder, delay, or defraud the institution, the institution's creditors, or the Corporation."

(b) INTERIM DEFINITION OF UNDERCAPITALIZATION.—During the period beginning on the date of enactment of this Act and ending on the effective date of section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o), an insured depository institution is undercapitalized for purposes of section 11(e)(14) of the Federal Deposit Insurance Act (as added by subsection (a) of this section), if it does not comply with any currently applicable minimum capital standard prescribed by the appropriate Federal banking agency, as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

SEC. 909. REAL ESTATE APPRAISAL AMENDMENT. Section 1113 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3342) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (2) the following:

"(3) THRESHOLD LEVEL.—Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions."

SEC. 910. EXTENSION OF CIVIL STATUTE OF LIMITATIONS.

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

SEC. 911. AGGREGATE LIMITS ON INSIDER LENDING.

Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)) is amended by adding at the end the following new subparagraph:

"(D) EXTENSIONS OF CREDIT SECURED BY FEDERAL OBLIGATIONS EXCLUDED.—For purposes of this paragraph, the term 'extension of credit' does not include an extension of credit fully secured by—

"(i) an obligation of the United States; or

"(ii) an obligation with respect to which the United States fully guarantees the payment of principal and interest."

SEC. 912. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) is amended—

(1) in subsection (d), by adding at the end the following: "An appropriate Federal banking agency may not prescribe standards or regulations under subsection (a), (b), or (c) that set a specific level or range of compensation for officers, directors, or employees of insured depository institutions."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

SEC. 913. TRUTH IN SAVINGS ACT AMENDMENTS.

(a) TIMING OF CERTAIN DISCLOSURES.—Section 266 of the Truth in Savings Act (12 U.S.C. 4305) is amended—

(1) by striking subsection (a)(3), and inserting the following:

"(3) provided to a depositor, in the case of a time deposit that is renewable at maturity without notice from the depositor and that has a period of maturity of 2 years or more, not later than 15 days before the date of maturity."; and

(2) by inserting after subsection (e) the following new subsection:

"(f) DISCLOSURES FOR RENEWAL OF CERTAIN ACCOUNTS.—

"(1) RENEWAL NOTICE.—A renewal notice shall be provided to the depositor with respect to a time deposit that has a maturity period greater than 1 month and less than 2 years that is renewable at maturity without notice from the depositor, as follows—

"(A) with respect to a time deposit that has a period of maturity of more than 3 months, but less than 2 years, not later than 15 days before the date of maturity; and

"(B) with respect to a time deposit that has a period of maturity of more than 1 month, but less than 3 months, not later than such time as the Board determines by regulation to be appropriate, in accordance with the purposes of this Act.

"(2) CONTENTS OF NOTICE.—A renewal notice required under this subsection shall state—

"(A) the maturity date of the expiring time deposit;

"(B) the maturity date or the term of the renewed time deposit;

"(C) any penalty for early withdrawal;

"(D) any change to the terms or conditions of the time deposit adverse to the customer, unless a notice under subsection (c) has been provided to the account holder;

"(E) the date on which the annual percentage yield and simple rate of interest will be determined; and

"(F) a telephone number to obtain the annual percentage yield and simple rate of interest that will be paid when the account is renewed.

"(3) RENEWAL OF SHORT-TERM TIME DEPOSITS.—With respect to a time deposit that has a period of maturity of 1 month or less and that is renewable at maturity without notice from the depositor, the Board may, by regulation, require that a notice be provided to an account holder at such time and containing such information as the Board determines appropriate, in accordance with the purposes of this Act."

(b) ON-PREMISES DISPLAYS.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) DISCLOSURE REQUIRED FOR ON-PREMISE DISPLAYS.—

"(1) IN GENERAL.—The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest that is displayed on the premises of the depository institution if such sign contains—

"(A) the accompanying annual percentage yield; and

"(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

"(2) DEFINITION.—For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution."

(c) EFFECTIVE DATE.—Section 269(a)(2) of the Truth in Savings Act (12 U.S.C. 4308(a)(2)) is amended by striking "6" and inserting "9".

Beginning with page 143, line 18, strike through page 155, line 14, and insert the following:

Subtitle B—Presidential Insurance Commission

SEC. 921. SHORT TITLE.

This subtitle may be cited as the "Presidential Insurance Commission Act of 1992".

SEC. 922. FINDINGS.

The Congress finds that—

(1) the property and casualty insurance, life insurance, health insurance, and reinsurance industries play a major and vital role in the capital formation and lending in the United States economy;

(2) at the end of 1989, life and health and property and casualty insurers combined controlled just under \$1,800,000,000,000 in assets invested in the United States;

(3) these insurer assets represented slightly less than 18 percent of the financial assets of all non-governmental financial intermediaries in the United States;

(4) of total United States assets, insurers controlled—

(A) 50.7 percent of all United States held corporate and foreign bonds;

(B) 32.1 percent of all tax-exempt bonds;

(C) 13.8 percent of United States Treasury securities;

(D) 18.2 percent of Federal agency securities;

(E) 12.2 percent of mortgages;

(F) 14.7 percent of corporate equities;

(G) 10.3 percent of open market paper; and

(H) 12 percent of all other United States assets; and

(5) a Presidential commission should be established to carry out the duties described in section 924.

SEC. 923. ESTABLISHMENT.

There is established a Presidential Commission on Insurance (hereafter in this subtitle referred to as the "Commission").

SEC. 924. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall assess the condition of the property and casualty insurance, life insurance, and reinsurance industries, including consideration of—

(1) the present and long-term financial health of the companies in such industries and the importance of that financial health to other aspects of the national economy, including the impact on other financial institutions;

(2) the effect of the decline of real estate values and noninvestment grade bond holdings on the financial health of the companies in such industries;

(3) the effect of current and projected guaranty fund assessments, under different insolvency scenarios, on the financial health of the companies in such industries;

(4) the effect of residual markets on the competitiveness of voluntary insurance markets and on the financial health of the companies in such industries;

(5) the causes of company insolvencies in the last 5 years;

(6) the effect of State and Federal liability systems, including with respect to long-term liability, on insurance industry solvency and the appropriateness of the present allocation of Federal and State responsibilities in the underlying liability systems;

(7) the effect of State regulation of companies in such industries with respect to—

(A) solvency (including the quality and consistency of regulation and the adequacy of insurance regulatory resources);

(B) consumer protection and competition (including pricing, product development, the adequacy of information to consumers, the transfer by companies of the policies of individual policyholders between companies, and any other relevant matters);

(C) reinsurance (including the authority of State regulators to regulate offshore reinsurers doing business in the United States); and

(D) the appropriateness of the present allocation of Federal and State responsibilities in regulating insurance;

(8) the efficiency of the present system for liquidation of insolvent insurance companies;

(9) the adequacy of State and Federal civil and criminal enforcement authority and activity; and whether any State law or regulatory action inhibits competition or efficiency or impairs insurer solvency;

(10) the condition of current State guaranty funds, including consideration of—

(A) the adequacy of assured payout to policyholders, including an assessment of the sufficiency of existing State guaranty associations to guarantee all policyholders payments, up to the limits of coverage under the funds, under a variety of industry insolvency scenarios;

(B) the effect of proposed changes in these funds by the National Association of Insurance Commissioners, including consideration of the timeliness with which such changes are likely to be adopted and implemented;

(C) the capability of a post-insolvency assessment system to meet large insolvencies in a timely manner;

(D) the effect on policyholders of differences in the amount of liability coverage

offered by the funds from State to State and of differences in eligibility rules from State to State; and

(E) the appropriateness of the extent of protection provided to individual policyholders and corporate policyholders;

(11) the effect of Federal, State, and local taxes on the solvency of companies in such industries, and the effect of State tax-offsets for guaranty fund assessments on taxpayers under a variety of industry insolvency scenarios; and

(12) whether there are some forms of catastrophic risks that deserve special insurance treatment.

(b) REPORT.—On the basis of the Commission's findings under subsection (a), the Commission shall submit the report required by section 928.

SEC. 925. MEMBERSHIP AND COMPENSATION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 25 members, including—

(1) the Secretary of the Treasury;

(2) the Secretary of Labor;

(3) the Secretary of Transportation;

(4) the Secretary of Commerce;

(5) the Chairman of the Federal Trade Commission;

(6) the Attorney General of the United States;

(7) 5 Members of the United States House of Representatives appointed by the Speaker of the House of Representatives from the committees of appropriate jurisdiction, of which 3 shall be appointed upon the recommendation of the Chairmen of such committees and 2 shall be appointed upon the recommendation of the Minority Leader;

(8) 5 Members of the United States Senate appointed by the President pro tempore of the Senate, of which 3 shall be appointed upon the recommendation of the Chairmen of the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, and 2 shall be appointed upon the recommendation of the Minority Leader; and

(9) 9 members, who are not Federal employees, who have expertise in insurance, financial services, antitrust, liability law and consumer issues, at least 1 of whom has expertise in State regulation of insurance, at least 2 of whom has expertise in the business of insurance and at least 2 of whom have expertise in consumer issues, to be appointed by the President.

(b) DESIGNEES.—An appropriate designee of any member described in paragraphs (1) through (8) of subsection (a) may serve on the Commission in the place of such member and under the same terms and conditions as such member.

(c) CONSULTATION BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall consult with—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Chairperson of the Federal Deposit Insurance Corporation; and

(3) the Chairman of the Securities and Exchange Commission, with respect to all financial and other matters within their respective jurisdictions that are under consideration by the Commission.

(d) ELIGIBILITY.—No member or officer of the Congress, or other member or officer of the Executive Branch of the United States Government may be appointed to be a member of the Commission pursuant to paragraph (9) of subsection (a).

(e) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(f) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission appointed pursuant to subsection (a)(9) shall be compensated at a rate equal to the annual rate of basic pay for GS-18 of the General Schedule.

(2) 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.

(g) QUORUM.—

(1) MAJORITY.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) APPROVAL OF ACTIONS.—All recommendations and reports of the Commission required by this subtitle shall be approved only by a majority vote of a quorum of the Commission.

(h) CHAIRPERSON.—The President shall select 1 member appointed pursuant to subsection (a)(9) to serve as the Chairperson of the Commission.

(i) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

SEC. 926. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may—

(1) hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate; and

(2) administer oaths or affirmations to witnesses appearing before the Commission, for the purpose of carrying out this subtitle.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subtitle.

(c) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission.

(2) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(3) CONFIDENTIALITY.—Information obtained under this section which is deemed confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Commission determines that the withholding thereof is contrary to the national interest. The provisions of the preced-

ing sentence shall not apply to the publication or disclosure of data that are aggregated in a manner that ensures protection of the identity of the person furnishing such data.

(4) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(5) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(6) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) OBTAINING OFFICIAL DATA.—

(1) AUTHORITY.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this subtitle.

(2) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of that department or agency shall furnish the information requested to the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this subtitle.

SEC. 927. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may 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 chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any

Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this subtitle.

SEC. 928. REPORT.

Not later than May 31, 1993, the Commission shall submit to the President and the Congress a final report containing a detailed statement of its findings, together with any recommendations for legislation or administrative action that the Commission considers appropriate, in accordance with the requirements of section 924.

SEC. 929. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the report required by section 928.

SEC. 930. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated \$3,000,000 to carry out the purposes of this subtitle.

Subtitle C—Secondary Market for Commercial Mortgage and Small Business Loans

SEC. 931. SHORT TITLE.

This subtitle may be cited as the "Secondary Market for Commercial Real Estate Mortgage and Small Business Loans Act of 1992".

SEC. 932. PURPOSE.

The purpose of this subtitle is to enable the Congress to gain an understanding of legal, regulatory, and market-based impediments to developing a secondary market for commercial real estate mortgage loans and loans to small businesses.

SEC. 933. FINDINGS.

The Congress finds that—

(1) the secondary market for residential real estate mortgage loans has created liquidity and diversified risk in the home mortgage lending market, has maintained an adequate flow of mortgage credit to homebuyers, and has stabilized mortgage loan prices across the country;

(2) an active and liquid secondary market for commercial real estate mortgage and small business loans has not developed despite the apparent benefits for lenders and homeowners in the residential market and the potential benefits to lenders and borrowers on the commercial market;

(3) a major impediment to the creation of a secondary market for commercial real estate mortgages and small business loans is the lack of standardization in such mortgages, including loan documents, underwriting, loan terms, credit enhancement, security product design and packaging, and ratings; and

(4) standardization of commercial real estate mortgage and small business loans and the elimination of legal and regulatory barriers would enhance the development of a broader, more liquid secondary market for commercial real estate mortgage and small business loans through private sector initiatives and resources.

SEC. 934. SECONDARY MARKET FOR COMMERCIAL MORTGAGE AND SMALL BUSINESS LOANS.

(a) STUDY AND REPORT BY THE TREASURY, THE CBO, AND THE SEC.—

(1) STUDY.—The Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, shall conduct a study of the potential costs and benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for commercial real estate mortgage loans and loans to

small businesses, including equipment and working capital loans. The study shall include consideration of—

(A) market perceptions and the reasons for the slow development of a secondary market for commercial real estate mortgage loans and loans to small businesses;

(B) the acquisition, development, and construction phases of the commercial real estate market;

(C) any means to standardize loan documents and underwriting for loans relating to retail, office space, and other segments of the commercial real estate market and for loans to small businesses;

(D) the probable effects of the development of a secondary market for commercial real estate mortgage loans and loans to small businesses on financial institutions and intermediaries, borrowers, lenders, real estate markets, and the credit markets generally;

(E) legal and regulatory barriers that may be impeding the development of a secondary market for commercial real estate mortgage loans and loans to small businesses;

(F) the risks posed by investments in commercial mortgage loans or related products and loans to small businesses; and

(G) the structure and effect of Federal loan guarantees and, if recommended, publicly supported credit enhancement.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission shall transmit to the Congress a report on the results of the study under paragraph (1). The report shall include recommendations for legislation and regulatory actions to facilitate the development of a secondary market for commercial real estate mortgage loans and loans to small businesses.

(b) STUDY AND REPORT BY THE RTC.—

(1) STUDY.—The chief executive officer of the Resolution Trust Corporation (hereafter in this subtitle referred to as the "RTC") shall conduct a study that focuses on—

(A) efforts by the RTC to standardize its disposition methods;

(B) the success of the RTC in marketing its commercial mortgage loan-backed securities; and

(C) the impact of the RTC's programs on the commercial real estate mortgage loan and small business loan secondary market.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the chief executive officer of the RTC shall transmit a report to the Congress on the impact of its commercial real estate loan securitization program. Such report shall also contain the results of the study under paragraph (1).

Subtitle D—Asset Conservation and Deposit Insurance Protection

SEC. 941. SHORT TITLE.

This subtitle may be cited as the "Asset Conservation and Deposit Insurance Protection Act of 1992".

SEC. 942. ASSET CONSERVATION AND DEPOSIT INSURANCE PROTECTION.

(a) CERCLA AMENDMENTS.—The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by inserting after section 126 the following new section:

"SEC. 127. ASSET CONSERVATION.

"(a) LIABILITY LIMITATIONS.—
 "(1) IN GENERAL.—The liability of an insured depository institution or other lender under this Act or subtitle I of the Solid

Waste Disposal Act for the release or threatened release of petroleum or a hazardous substance at, from, or in connection with property—

"(A) acquired through foreclosure;

"(B) held, directly or indirectly, in a fiduciary capacity;

"(C) held by a lessor pursuant to the terms of an extension of credit; or

"(D) subject to financial control or financial oversight pursuant to the terms of an extension of credit,

shall be limited to the actual benefit conferred on such institution or lender by a removal, remedial, or other response action undertaken by another party.

"(2) SAFE HARBOR.—An insured depository institution or other lender shall not be liable under this Act or subtitle I of the Solid Waste Disposal Act and shall not be deemed to have participated in management, as described in section 101(20)(A) of this Act or section 9003(h)(9) of the Solid Waste Disposal Act, based solely on the fact that the institution or lender—

"(A) holds a security interest or abandons or releases its security interest in the property before foreclosure;

"(B) has the unexercised capacity to influence operations at or on property in which it has a security interest;

"(C) includes in the terms of an extension of credit (or in the contract relating thereto), covenants, warranties, or other terms and conditions that relate to compliance with environmental laws;

"(D) monitors or enforces the terms and conditions of the extension of credit;

"(E) monitors or undertakes one or more inspections of the property;

"(F) requires cleanup of the property prior to, during, or upon the expiration of the term of the extension of credit;

"(G) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the property;

"(H) restructures, renegotiates, or otherwise agrees to alter the terms and conditions of the extension of credit;

"(I) exercises whatever other remedies that may be available under applicable law for the breach of any term or condition of the extension of credit; or

"(J) declines to take any of the actions described in this paragraph.

"(b) ACTUAL BENEFIT.—For the purpose of this section, the actual benefit conferred on an institution or lender by a removal, remedial, or other response action shall be equal to the net gain, if any, realized by such institution or lender due to such action. For purposes of this subsection, the 'net gain' shall not exceed the amount realized by the institution or lender on the sale of property.

"(c) EXCLUSION.—Notwithstanding subsection (a), but subject to the provisions of section 107(d), a depository institution or lender that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in subsection (a), may be liable for removal, remedial, or other response action pertaining to that release.

"(d) ENVIRONMENTAL ASSESSMENTS.—

"(1) DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations to implement this section. Such regulations shall include requirements for insured depository institutions to develop and implement adequate procedures

to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for different types of environmental assessments as may be appropriate under the circumstances, in order to account for the levels of risk that may be posed by different classes of collateral. Failure to comply with the environmental assessment regulations promulgated under this subsection shall be deemed to be a violation of a regulation promulgated under the Federal Deposit Insurance Act.

"(2) LENDERS.—The Federal Deposit Insurance Corporation, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations that are substantially similar to those promulgated under paragraph (1) to assure that lenders develop and implement procedures to evaluate actual and potential environmental risks that may arise from or at property prior to making an extension of credit secured by such property. The regulations may provide for exclusions or different types of environmental assessments in order to take into account the level of risk that may be posed by particular classes of collateral.

"(3) FINAL REGULATIONS.—Final regulations required to be promulgated pursuant to paragraphs (1) and (2) shall be issued not later than 180 days after the date of enactment of this section.

"(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) PROPERTY ACQUIRED THROUGH FORECLOSURE.—The term 'property acquired through foreclosure' or 'acquires property through foreclosure' means property acquired, or the act of acquiring property, from a nonaffiliated party by an insured depository institution or other lender—

"(A) through purchase at sales under judgment or decree, power of sales, nonjudicial foreclosure sales, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if such property was security for an extension of credit previously contracted;

"(B) through conveyance pursuant to an extension of credit previously contracted, including the termination of a lease agreement; or

"(C) through any other formal or informal manner by which the insured depository institution or other lender temporarily acquires, for subsequent disposition, possession of collateral in order to protect its interest. Property is not acquired through foreclosure if the insured depository institution or lender does not seek to sell or otherwise divest such property at the earliest practical, commercially reasonable time, taking into account market conditions and legal and regulatory requirements.

"(2) LENDER.—The term 'lender' means—

"(A) a person (other than an insured depository institution) that—

"(i) makes a bona fide extension of credit to a nonaffiliated party; and

"(ii) substantially and materially complies with the environmental assessment requirements imposed under subsection (d), after final regulations under that subsection become effective;

and the successors and assigns of such person;

"(B) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests there-

in, if such Association, Corporation, or entity requires institutions from which it purchases loans (or other obligations) to comply substantially and materially with the requirements of subsection (d), after final regulations under that subsection become effective; and

“(C) any person regularly engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to nonaffiliated parties.

“(3) FIDUCIARY CAPACITY.—The term ‘fiduciary capacity’ means acting for the benefit of a nonaffiliated person as a bona fide—

“(A) trustee;

“(B) executor;

“(C) administrator;

“(D) custodian;

“(E) guardian of estates;

“(F) receiver;

“(G) conservator;

“(H) committee of estates of lunatics; or

“(I) any similar capacity.

“(4) EXTENSION OF CREDIT.—The term ‘extension of credit’ includes a lease finance transaction—

“(A) in which the lessor does not initially select the leased property and does not during the lease term control the daily operations or maintenance of the property; or

“(B) which conforms with regulations issued by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) or the appropriate State banking regulatory authority.

“(5) INSURED DEPOSITORY INSTITUTION.—The term ‘insured depository institution’ has the same meaning as in section 3(c) of the Federal Deposit Insurance Act, and shall also include—

“(A) a federally insured credit union;

“(B) a bank or association chartered under the Farm Credit Act of 1971; and

“(C) a leasing or trust company that is an affiliate of an insured depository institution (as such term is defined in this paragraph).

“(6) RELEASE.—The term ‘release’ has the same meaning as in section 101(22), and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

“(7) HAZARDOUS SUBSTANCE.—The term ‘hazardous substance’ has the same meaning as in section 101(14).

“(8) SECURITY INTEREST.—The term ‘security interest’ includes rights under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or some other obligation.

“(f) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.

“(g) EFFECTIVE DATE.—This section shall become effective upon the date of its enactment.”.

(b) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) by redesignating section 39 (as added by section 132(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as section 42;

(2) by redesignating section 40 (as added by section 151(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as section 43; and

(3) by adding at the end the following new section:

“SEC. 44. ASSET CONSERVATION.

“(a) GOVERNMENTAL ENTITIES.—

“(1) BANKING AND LENDING AGENCIES.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under any law imposing strict liability for the release or threatened release of petroleum or a hazardous substance at or from property (including any right or interest therein) acquired—

“(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including any of its subsidiaries;

“(B) in connection with the provision of loans, discounts, advances, guarantees, insurance or other financial assistance; or

“(C) in connection with property received in any civil or criminal proceeding, or administrative enforcement action, whether by settlement or order.

“(2) APPLICATION OF STATE LAW.—Nothing in this section shall be construed as preempting, affecting, applying to, or modifying any State law, or any rights, actions, cause of action, or obligations under State law, except that liability under State law shall not exceed the value of the agency’s interest in the asset giving rise to such liability. Nothing in this section shall be construed to prevent a Federal banking or lending agency from agreeing with a State to transfer property to such State in lieu of any liability that might otherwise be imposed under State law.

“(3) LIMITATION.—Notwithstanding paragraph (1), and subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, a Federal banking or lending agency that causes or significantly and materially contributes to the release of petroleum or a hazardous substance that forms the basis for liability described in paragraph (1), may be liable for removal, remedial, or other response action pertaining to that release.

“(4) SUBSEQUENT PURCHASER.—The immunity provided by paragraph (1) shall extend to the first subsequent purchaser of property described in such paragraph from a Federal banking or lending agency, unless such purchaser—

“(A) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, or other response action due to a prior relationship with the property;

“(B) is or was affiliated with or related to a party described in subparagraph (A);

“(C) fails to agree to take reasonable steps necessary to remedy the release or threatened release in a manner consistent with the purposes of applicable environmental laws; or

“(D) causes or materially and significantly contributes to any additional release or threatened release on the property.

“(5) FEDERAL OR STATE ACTION.—Notwithstanding paragraph (4), if a Federal agency or State environmental agency is required to take remedial action due to the failure of a subsequent purchaser to carry out, in good faith, the agreement described in paragraph (4)(C), such subsequent purchaser shall reimburse the Federal or State environmental agency for the costs of such remedial action. However, any such reimbursement shall not exceed the full fair market value of the prop-

erty following completion of the remedial action.

“(b) LIEN EXEMPTION.—Notwithstanding any other provision of law, any property held by a subsequent purchaser referred to in subsection (a)(4) or held by a Federal banking or lending agency shall not be subject to any lien for costs or damages associated with the release or threatened release of petroleum or a hazardous substance known to exist at the time of the transfer.

“(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—A Federal banking or lending agency shall be exempt from any law requiring such agency to grant covenants warranting that a removal, remedial, or other response action has been, or will in the future be, taken with respect to property acquired in the manner described in subsection (a)(1).

“(d) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) FEDERAL BANKING OR LENDING AGENCY.—The term ‘Federal banking or lending agency’ means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, a Federal Reserve Bank, a Federal Home Loan Bank, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, and the Small Business Administration, in any of their capacities, and their agents.

“(2) HAZARDOUS SUBSTANCE.—The term ‘hazardous substance’ has the same meaning as in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

“(3) RELEASE.—The term ‘release’ has the same meaning as in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and also includes the threatened release, use, storage, disposal, treatment, generation, or transportation of a hazardous substance.

“(e) SAVINGS CLAUSE.—Nothing in this section shall affect the rights or immunities or other defenses that are available under this Act or other applicable law to any party subject to the provisions of this section. Nothing in this section shall be construed to create any liability for any party. Nothing in this section shall create a private right of action against a depository institution or lender or against a Federal banking or lending agency.”.

Subtitle E—Limitations on Liability

SEC. 951. DIRECTORS NOT LIABLE FOR ACQUISITION OR COMBINATION.

(a) LIABILITY.—During the period beginning on the date of enactment of this Act and ending on December 19, 1992, the members of the board of directors of an insured depository institution shall not be liable to the institution’s shareholders or creditors for acquiescing in or consenting in good faith to—

(1) the appointment of the Resolution Trust Corporation or the Federal Deposit Insurance Corporation as conservator or receiver for that institution; or

(2) the acquisition of the institution by a depository institution holding company, or the combination of the institution with another insured depository institution if the appropriate Federal banking agency has—

(A) requested the institution, in writing, to be acquired or to combine; and

(B) notified the institution that 1 or more grounds exist for appointing a conservator or receiver for the institution.

(b) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "depository institution holding company", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 952. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph."

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(A) by redesignating subsection (o) (as added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2354)) as subsection (p); and

(B) by adding at the end the following:

"(q) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(l)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and"

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this subtitle.

SEC. 953. AMENDMENT TO INTERNATIONAL BANKING ACT OF 1978.

Section 6(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3104(c)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "\$100,000."; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "\$100,000".

TITLE X—MONEY LAUNDERING

SEC. 1001. SHORT TITLE.

This title may be cited as the "Financial Institutions Enforcement Improvements Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 1011. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Office of the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Office of the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pre-termination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Office of the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pre-termination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the bank, Federal branch, or Federal agency maintained at the time of the conviction, according to the review of the Comptroller of the Currency, a program of money laundering deterrence and compliance that clearly exceeded federally required

deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a national bank, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the bank or its holding company. If the institution is a Federal branch or Federal agency (as those terms are defined under section 1(b) of the International Banking Act of 1978) of a foreign institution, the term 'senior management officials' means those individuals who exercise major supervisory control within any branch of that foreign institution located within the United States. The Comptroller of the Currency shall by regulation specify which officials of a national bank shall be treated as senior management officials for the purpose of this subsection."

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director of the Office of Thrift Supervision a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director of the Office of Thrift Supervision shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pre-termination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director of the Office of Thrift Supervision may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pre-termination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Office of Thrift Supervision shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the association has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to any Federal deposit insurance fund or the Resolution Trust Corporation; and

"(E) whether the association maintained at the time of the conviction, according to the review of the Director of the Office of Thrift Supervision, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within a savings association, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of the savings association or its holding company. The Office of Thrift Supervision shall by regulation specify which officials of a savings association shall be treated as senior management officials for the purpose of this subsection."

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) CONVICTION OF TITLE 18 OFFENSES.—

"(A) DUTY TO NOTIFY.—If a credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRE-TERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited

under subsection (a), the Board shall consider—

"(1) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(2) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(3) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(4) whether there will be any losses to the credit union share insurance fund; and

"(5) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(c) SUCCESSOR LIABILITY.—This section does not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.

"(d) DEFINITION.—For purposes of this section, the term 'senior management officials' means those individuals who exercise major supervisory control within a credit union, including members of the board of directors. The Board shall by regulation specify which officials of a credit union shall be treated as senior management officials for the purpose of this section."

SEC. 1012. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution, including a State branch of a foreign institution, has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; TERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution, including a State branch of a foreign institution, is convicted of any offense punishable

under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the institution has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the Federal deposit insurance funds or the Resolution Trust Corporation; and

"(E) whether the institution maintained at the time of the conviction, according to the review of the Corporation, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with section 8(a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured depository institution, including members of the board of directors and individuals who own or control 10 percent or more of the outstanding voting stock of such institution or its holding company. If the institution is a State branch of a foreign institution, the term 'senior management officials' means those individuals who exercise major super-

visory control within any branch of that foreign institution located within the United States. The Board of Directors shall by regulation specify which officials of an insured State depository institution shall be treated as senior management officials for the purpose of this subsection."

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (v)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(u) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense described in section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of Directors of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any offense punishable under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall consider—

"(A) the degree to which senior management officials knew of, or were involved in, the solicitation of illegally derived funds or the money laundering operation;

"(B) whether the interest of the local community in adequate depository and credit services would be threatened by the forfeiture of the franchise;

"(C) whether the credit union has fully cooperated with law enforcement authorities with respect to the conviction;

"(D) whether there will be any losses to the credit union share insurance fund; and

"(E) whether the credit union maintained at the time of the conviction, according to the review of the Board, a program of money laundering deterrence and compliance that clearly exceeded federally required deterrence and compliance measures; adequately monitored the activities of its officers, employees, and agents to ensure compliance; and promptly reported suspected violations to law enforcement authorities.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) DEPOSITS UNINSURED.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection does not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—For purposes of this subsection, the term 'senior management officials' means those individuals who exercise major supervisory control within an insured credit union, including members of the board of directors. The Board shall by regulation specify which officials of an insured State credit union shall be treated as senior management officials for the purpose of this subsection."

SEC. 1013. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the appropriate Federal banking agency determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured depository institution knew that an institution-affiliated party of the insured depository institution violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(C) an officer or director of an insured depository institution committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of its intention to remove such party from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph."

(2) FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution. A copy of such notice shall also be served upon the depository institution.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution except with the consent of the appropriate agency.

"(D) A copy of such order shall also be served upon such depository institution, whereupon such party (if a director or an officer) shall cease to be a director or officer of such depository institution. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency."

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—Whenever the Board determines that—

"(A) an institution-affiliated party committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(B) an officer or director of an insured credit union knew that an institution-affiliated party of the insured credit union violated any such provision or any provision of law referred to in subsection (1)(1)(A)(ii); or

"(C) an officer or director of an insured credit union committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of its inten-

tion to remove him from office. In determining whether an officer or director should be removed as a result of the application of subparagraph (B), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph."

(2) **FELONY CHARGES.**—Section 206(1)(1) of the Federal Credit Union Act (12 U.S.C. 1786(1)(1)) is amended to read as follows:

"(1)(A) Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956 or 1957 of title 18, United States Code, or an offense punishable under section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union.

"(B) A suspension or prohibition under subparagraph (A) shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board.

"(C)(i) In the event that a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against such party in connection with a crime described in subparagraph (A)(i), and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(ii) In the event of such a judgment of conviction or agreement in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Board.

"(D) A copy of such order shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board."

SEC. 1014. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended

by inserting "or money laundering" after "breach of trust".

SEC. 1015. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes."

SEC. 1016. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following:

"(1) **PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.**—

"(1) **NOTICE OF INTENTION TO ISSUE ORDER.**—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary,

"(B) any State agency,

"(C) any State branch which is not an insured branch,

"(D) any State commercial lending subsidiary, or

"(E) any director or senior executive officer of any such foreign bank, agency, branch, or subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) **DEFINITIONS.**—For purposes of this subsection—

"(A) **INSURED BRANCH.**—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) **MONEY LAUNDERING OFFENSE DEFINED.**—The term 'money laundering offense' means any offense under section 1956, 1957, or 1960 of title 18, United States Code, or punishable under section 5322 of title 31, United States Code.

"(C) **SENIOR EXECUTIVE OFFICERS.**—The term 'senior executive officers' has the meaning given to such term by the Board pursuant to section 32(f) of the Federal Deposit Insurance Act."

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 1021. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) **IN GENERAL.**—Chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following:

"§ 5327. Identification of financial institutions

"By January 1, 1993, the Secretary shall prescribe regulations providing that each depository institution identify its customers which are financial institutions as defined in subparagraphs (H) through (Y) of section 5312(a)(2) and the regulations thereunder and which hold accounts with the depository institution. Each depository institution shall report the names of and other information about these financial institution customers to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation. No person shall cause or attempt to cause a depository institution not to file

a report required by this section or to file a report containing a material omission or misstatement of fact. The Secretary shall provide these reports to appropriate State financial institution supervisory agencies for supervisory purposes."

(b) **CIVIL PENALTY.**—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following paragraph:

"(7)(A) The Secretary may impose a civil penalty on any person or depository institution, within the meaning of section 5327, that willfully violates any provision of section 5327 or a regulation prescribed thereunder.

"(B) The amount of any civil money penalty imposed under subparagraph (A) shall not exceed \$10,000 for each day a report is not filed or a report containing a material omission or misstatement of fact remains on file with the Secretary."

(c) **CHAPTER ANALYSIS.**—The chapter analysis for chapter 53 of title 31, United States Code, is amended by adding at the end the following new item:

"5327. Identification of financial institutions."

SEC. 1022. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) **IN GENERAL.**—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to—

"(1) the seizure, summary, and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws;

"(2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims and the award of compensation to informers with respect to such forfeitures;

shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(c) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States."

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses."

SEC. 1023. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

SEC. 1024. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary."

SEC. 1025. IMPROVED RECORDKEEPING WITH RESPECT TO CERTAIN INTERNATIONAL FUNDS TRANSFERS.

(a) IN GENERAL.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b)(1) Where"; and

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

"(2) TRANSFERS OF FUNDS.—

"(A) IN GENERAL.—Before October 1, 1992, the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') in consultation with State banking departments shall jointly prescribe such final regulations as may be appropriate to require insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks, or other similar instruments to maintain records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks, or similar instruments;

that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) AVAILABILITY OF RECORDS.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary upon request."

(b) CONFORMING AMENDMENTS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in the first sentence of subsection (c), by striking "the Secretary shall" and insert-

ing "the regulations prescribed under subsection (b) shall";

(2) in subsection (d), by striking "regulations of the Secretary" and inserting "regulations issued under subsection (b)";

(3) in subsection (e), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require";

(4) in subsection (f), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require"; and

(5) in subsection (g), by striking "Secretary may prescribe" and inserting "regulations issued under subsection (b) may require".

SEC. 1026. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 1027. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or the regulations thereunder" after "section 5313(a)" each place it appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5318 of title 31, United States Code, is amended by adding at the end the following:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require financial institutions to report suspicious transactions relevant to possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution that voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution not subject to the provisions of section 1103(c) of the Right to Financial Privacy Act of 1978, or officer, employee, or agent thereof, that makes a voluntary disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum—

"(1) the development of internal policies, procedures, and controls,

"(2) the designation of a compliance officer,

"(3) an ongoing employee training program, and

"(4) an independent audit function to test programs.

The Secretary may promulgate minimum standards for such programs."

SEC. 1028. REPORT ON CURRENCY CHANGES.

The Secretary of the Treasury, in consultation with the Attorney General, the Chairman of the Board of Governors of the Federal Reserve System, and the Administrator of Drug Enforcement, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the date of enactment of this Act, on the advantages for money laundering enforcement, and any disadvantages, of—

(1) changing the size, denominations, or color of United States currency; or

(2) providing that the color of United States currency in circulation in countries outside the United States will be of a different color than currency circulating in the United States.

SEC. 1029. REPORT ON BANK PROSECUTIONS.

(a) IN GENERAL.—The Attorney General, after obtaining the views of all interested agencies, shall determine to what extent compliance with the Money Laundering Control Act (18 U.S.C. 1956 and 1957), the Bank Secrecy Act (31 U.S.C. 5322), criminal referral reporting obligations, and cooperation with law enforcement authorities generally, would be enhanced by the issuance of guidelines for the prosecution of financial institutions for violations of such Acts. Such guidelines, if issued, shall reflect the standards for anti-money laundering programs issued under section 5318(h) of title 31, United States Code.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Attorney General shall transmit to the Congress a report on such determination.

SEC. 1030. ANTI-MONEY LAUNDERING TRAINING TEAM.

(a) IN GENERAL.—The Secretary of the Treasury shall establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

(b) AUTHORIZATION.—There is authorized to be appropriated not more than \$1,000,000 to carry out this section.

SEC. 1031. MONEY LAUNDERING REPORTING REQUIREMENTS.

(a) OBJECTIVE.—The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions. The President shall report annually to Congress on bilateral and multilateral efforts to meet this objective. This report shall be submitted with the report required under section 481(e) of the Foreign Assistance Act of 1961.

(b) CONTENTS OF REPORT.—The report shall include—

(1) information on bilateral and multilateral initiatives pursued by the Department of State, the Department of Justice, and the Department of the Treasury, and other Government agencies, individually or collectively, to achieve the anti-money laundering objective of the United States;

(2) information on relevant bilateral agreements and on the actions of international organizations and groups;

(3) information on the countries which have ratified the United Nations Convention

on Illicit Traffic in Narcotic Drugs and Other Psychotropic Substances and on measures adopted by governments and organizations to implement the money laundering provisions of the United Nations Convention, the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and similar declarations;

(4) information on the extent to which each major drug producing and drug transit country, as specified in section 481 of the Foreign Assistance Act of 1961, and each additional country that has been determined by the Department of the Treasury, the Department of Justice, the Department of State, and the Office of National Drug Control Policy, in consultation, to be significant in the fight against money laundering—

(A) has adequate mechanisms to exchange financial records in narcotics money laundering and narcotics-related investigations and proceedings; and

(B) has adopted laws, regulations, and administrative measures considered necessary to prevent and detect narcotics-related money laundering, including whether a country has—

(i) criminalized narcotics money laundering;

(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including large currency transactions;

(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

(iv) required or allowed financial institutions to report suspicious transactions;

(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets; and

(vi) addressed the problem of international transportation of illegal-source currency and monetary instruments;

(5) details of significant instances of non-cooperation with the United States in narcotics-related money laundering and other narcotics-related cases; and

(6) a summary of initiatives taken by the United States or any international organization, including the imposition of sanctions, with respect to any country based on that country's actions with respect to narcotics-related money laundering matters.

(c) SPECIFICITY OF REPORT.—The report should be in sufficient detail to assure the Congress that concerned agencies—

(1) are pursuing a common strategy with respect to achieving international cooperation against money laundering which includes a summary of United States objectives on a country-by-country basis; and

(2) have agreed upon approaches and responsibilities for implementation of the strategy, not limited to the conduct of negotiations to achieve treaties and agreements.

Subtitle C—Money Laundering Improvements

SEC. 1041. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond."

SEC. 1042. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the United States.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property, it shall not be—

"(A) necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture;

"(B) a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 2 years from the date of the offense.

"(d) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds deposited by a financial institution (as defined in section 20 of this title) into an account with another financial institution unless the depositing institution knowingly engaged in the offense that is the basis for the forfeiture."

(b) RETROACTIVE APPLICATION.—The amendments made by this section shall apply retroactively.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property."

SEC. 1043. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 985. Administrative subpoenas

"(a) For the purpose of conducting a civil investigation in contemplation of a civil forfeiture proceeding under this title or the Controlled Substances Act, the Attorney General may—

"(1) administer oaths and affirmations;

"(2) take evidence; and

"(3) by subpoena, summon witnesses and require the production of any books, papers, correspondence, memoranda, or other records that the Attorney General deems relevant or material to the inquiry.

A subpoena issued pursuant to subsection (a) may require the attendance of witnesses and the production of any such records from any place in the United States at any place in the United States designated by the Attorney General.

"(b) The same procedures and limitations as are provided with respect to civil investigative demands in subsections (g), (h), and (j) of section 1968 of title 18, United States Code, apply with respect to a subpoena issued under this section. Process required by such subsections to be served upon the custodian shall be served on the Attorney General. Failure to comply with an order of the court to enforce such subpoena shall be punishable as contempt.

"(c) In the case of a subpoena for which the return date is less than 5 days after the date of service, no person shall be found in contempt for failure to comply by the return date if such person files a petition under subsection (b) not later than 5 days after the date of service.

"(d) A subpoena may be issued pursuant to this subsection at any time up to the commencement of a judicial proceeding under this section."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code is amended by adding at the end the following:

"985. Administrative subpoenas."

SEC. 1044. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture brought by the United States under this title or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

"(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discov-

ery pursuant to the Federal Rules of Civil Procedure."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"966. Subpoenas for bank records."

SEC. 1045. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud);" and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 1046. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "No person"; and

(2) by adding at the end the following:
 "(b) No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments."

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government."

SEC. 1047. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 1048. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting "including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 1049. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 1050. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of title 26, United States Code" after "criminal drug laws of the United States".

SEC. 1051. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy."

SEC. 1052. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer".

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 1053. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of title 26, United States Code".

SEC. 1054. DEFINITION OF PROPERTY FOR CRIMINAL FORFEITURE.

Section 982(b)(1)(A) of title 18, United States Code, is amended by striking "(c)" and inserting "(b), (c)".

SEC. 1055. EXPANSION OF MONEY LAUNDERING AND FORFEITURE LAWS TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

(a) IN GENERAL.—Sections 981(a)(1)(B) and 1956(c)(7)(B) of title 18, United States Code, are amended by—

(1) inserting "(i)" after "against a foreign nation involving"; and

(2) inserting "(ii) kidnaping, robbery, or extortion, or (iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978" after "Controlled Substances Act)".

(b) RETROACTIVE APPLICATION.—All amendments to the civil forfeiture statute, section

981 of title 18, United States Code, made by this section and elsewhere in this Act shall apply retroactively.

SEC. 1056. ELIMINATION OF RESTRICTION ON DISPOSAL OF JUDICIALLY FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited."

SEC. 1057. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; "any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than \$5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 1058. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting "section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears;

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended by inserting "or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and

(2) in section 127, by inserting "or willfully causes a violation of" after "Whoever willfully violates".

Subtitle D—Reports and Miscellaneous

SEC. 1061. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) STUDY REQUIRED.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act (12 U.S.C. 3415). The study shall also include analysis of the effect of allowing nondepository licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) REPORT.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 1062. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall report to the appropriate Federal banking agency any information regarding any matter that could have a significant effect on the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall report to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury shall report the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for the receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS, SAFETY OF GOVERNMENT INVESTIGATOR, INFORMANTS, AND WITNESSES.—If the Attorney General or his designee determines that the reporting of a particular item of information pursuant to paragraph (1) might jeopardize a pending criminal investigation or the safety of Government investigators, informants, or witnesses, the Attorney General shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation or the safety of the investigators, informants, or witnesses; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of the this Act, each appropriate Federal banking agency shall establish procedures for receipt of a report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information contained in a report, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that furnished the report regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information contained in the report.

(c) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal bank-

ing agency" and "depository institution" have the same meanings as in section 8 of the Federal Deposit Insurance Act.

SEC. 1063. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1064. INTERAGENCY INFORMATION SHARING.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(t) AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.—

"(1) IN GENERAL.—A covered agency does not waive any privilege applicable to any information by transferring that information to or permitting that information to be used by—

"(A) any other covered agency, in any capacity; or

"(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED AGENCY.—The term 'covered agency' means any of the following:

"(i) Any appropriate Federal banking agency.

"(ii) The Resolution Trust Corporation.

"(iii) The Farm Credit Administration.

"(iv) The Farm Credit System Insurance Corporation.

"(v) The National Credit Union Administration.

"(B) PRIVILEGE.—The term 'privilege' includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information."

SEC. 1065. ADDITIONAL DEFINITIONS.

(a) CERCLA AMENDMENTS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding the following new paragraphs at the end thereof:

"(39) The term 'municipal solid waste' means all waste materials generated by households, including single and multiple residences, hotels and motels, and office buildings. The term also includes trash generated by commercial, institutional, and industrial sources when the physical and chemical state, composition, and toxicity of such materials are essentially the same as waste normally generated by households, or when such waste materials, regardless of when generated, would be considered conditionally exempt generator waste under section 3001(d) of the Solid Waste Disposal Act because it was generated in a total quantity of 100 kilograms or less during a calendar month. The term 'municipal solid waste' includes all constituent components of municipal solid waste, including constituent components that may be deemed hazardous substances under this Act when they exist apart from municipal solid waste. Examples of municipal solid waste include food and yard waste, paper, clothing, appliances, consumer product packaging, disposable diapers, office supplies, cosmetics, glass and metal food containers, and household hazardous waste (such as painting, cleaning, gardening, and automotive supplies). The term 'municipal solid waste' does not include combustion ash generated by resource recovery facilities or

municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(40) The term 'sewage sludge' refers to any solid, semisolid, or liquid residue removed during the treatment of municipal waste water, domestic sewage, or other waste waters at or by a publicly-owned treatment works, subject to the limitations of section 113(m) of this Act.

"(41) The term 'municipality' means any political subdivision of a State and may include cities, counties, towns, townships, boroughs, parishes, school districts, sanitation districts, water districts, and other local governmental entities. The term also includes any natural person acting in his or her official capacity as an official, employee, or agent of a municipality."

(b) CONTRIBUTION ACTIONS; RIGHT-OF-WAY.—Section 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsections at the end thereof:

"(m) CONTRIBUTION ACTIONS FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No municipality or other person shall be liable to any person other than the United States for claims of contribution under this section or for other response costs or damages under this Act for acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(n) PUBLIC RIGHT-OF-WAY.—In no event shall a municipality incur liability under this Act for the acts of owning or maintaining a public right-of-way over which hazardous substances are transported, or of granting a business license to a private party for the transportation, treatment, or disposal of municipal solid waste or sewage sludge. For the purposes of this subsection, 'public right-of-way' includes, but is not limited to, roads, streets, flood control channels, or other public transportation routes, and pipelines used as a conduit for sewage or other liquid or semiliquid discharges."

(c) SETTLEMENTS; FUTURE DISPOSAL PRACTICES.—Section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by adding the following new subsections at the end thereof:

"(n) SETTLEMENTS FOR GENERATORS AND TRANSPORTERS OF MUNICIPAL SOLID WASTE OR SEWAGE SLUDGE.—

"(1) ELIGIBLE PERSONS.—This subsection applies to any person against whom an administrative or judicial action is brought, or to whom notice is given of potential liability under this Act, for acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge.

"(2) OFFER OF SETTLEMENTS; MORATORIUM.—Eligible persons under this subsection may offer to settle their potential liability with the President by stating in writing their ability and willingness to settle their potential liability in accordance with this subsection. Upon receipt of such offer to settle, neither the President nor any other party shall take further administrative or judicial action against the eligible person for relevant acts or omissions addressed in the settlement offer.

"(3) TIMING.—Eligible persons may tender offers under this subsection within 180 days after receiving a notice of potential liability

or becoming subject to administrative or judicial action, or within 180 days after a record of decision is issued for the portion of the response action that is the subject of the person's settlement offer, whichever is later. If the President notifies an eligible person that he or she may be a potentially responsible party, no further administrative or judicial action may be taken by any party for 120 days against such person.

"(4) **EXPEDITED FINAL SETTLEMENT.**—The President shall make every effort to reach final settlements as promptly as possible under this subsection and such settlements shall—

"(A) allocate to all acts or omissions related to the generation, transportation, or arrangement for the transportation, treatment, or disposal of municipal solid waste or sewage sludge that may create liability under this Act a total of no more than 4 percent of the total response costs; *Provided, however,* That the President shall reduce this percentage when the presence of municipal solid waste or sewage sludge is not significant at the facility;

"(B) require an eligible person under this subsection to pay only for his or her equitable share of the maximum 4 percent portion of response costs described in subparagraph (A);

"(C) limit an eligible person's payments based on such person's inability to pay;

"(D) permit an eligible person to provide services in lieu of money and to be credited at market rates for such services;

"(E) consider the degree to which a publicly owned treatment works has promoted the beneficial reuse of sewage sludge through land application when the basis of liability arises from acts or omissions related to sewage sludge taken 36 months after the date of enactment of this Act or thereafter; and

"(F) be reached even in the event that an eligible person may be liable under sections 107(a)(1) or 107(a)(2) of this Act or for acts or omissions related to substances other than municipal solid waste or sewage sludge.

"(5) **COVENANT NOT TO SUE.**—The President may provide a covenant not to sue with respect to the facility concerned to any person who has entered into a settlement under this subsection unless such a covenant would be inconsistent with the public interest as determined under subsection (f) of this section.

"(6) **EFFECT OF AGREEMENT.**—A person that has resolved his or her liability to the United States under this subsection shall not be liable for claims of contribution or for other response costs or damages under this Act regarding matters addressed in the settlement. Such settlement does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

"(7) **DE MINIMIS SETTLEMENTS.**—Nothing in this subsection shall alter or diminish a person's right or ability to reach a settlement with the President under subsection (g) of this section.

"(o) **FUTURE DISPOSAL PRACTICES.**—Eligible persons may assert the provisions of section 122(n) regarding acts or omissions taken 36 months after the date of enactment of this Act or thereafter only under the following circumstances:

"(1) if the acts or omissions relate to municipal solid waste and the eligible person is a municipality, a qualified household hazardous waste collection program must have been operating while the relevant acts or omissions took place; or

"(2) if the acts or omissions relate to sewage sludge and the eligible person is an oper-

ator of a publicly owned treatment works, a qualified publicly owned treatment works must have been operating while the relevant acts or omissions took place.

"(3) The term 'qualified household hazardous waste collection program' means a program that includes—

"(A) at least semiannual, well-publicized collections at conveniently located collection points with an intended goal of participation by ten percent of community households;

"(B) a public education program that identifies both hazardous household products and safer substitutes (source reduction);

"(C) efforts to collect hazardous waste from conditionally exempt generators under section 3001(d) of the Solid Waste Disposal Act (because they generated a total quantity of 100 kilograms or less during a calendar month), with an intended goal of collecting wastes from twenty percent of such generators doing business within the jurisdiction of the municipality; and

"(D) a comprehensive plan, which may include regional compacts or joint ventures, that outlines how the program will be accomplished.

"(4) A person that operates a 'qualified household hazardous waste collection program' and collects hazardous waste from conditionally exempt generators under section 3001(d) of the Solid Waste Disposal Act must dispose of such waste at a hazardous waste treatment, storage or disposal facility with a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925), but such person is otherwise deemed to be handling only household waste under the Solid Waste Disposal Act when it operates a qualified household hazardous waste collection program.

"(5) Nothing in this Act shall prohibit a municipality from charging fees to persons whose waste is accepted during household hazardous waste collections, or shall prohibit a municipality from refusing to accept waste that the municipality believes is being disposed of in violation of the Solid Waste Disposal Act.

"(6) The term 'qualified publicly owned treatment works' means a publicly owned treatment works that complies with section 405 of the Federal Water Pollution Control Act (33 U.S.C. 1345).

"(7) The President may determine that a household hazardous waste collection program or a publicly owned treatment works is not qualified under this subsection. Minor instances of noncompliance that are not environmentally significant do not render a household hazardous waste collection program or publicly owned treatment works unqualified under this subsection.

"(8) If the President determines that a household hazardous waste collection program is not qualified, the limitations imposed by this subsection on the assertion of the provisions of section 122(n) shall apply, but only with regard to the municipal solid waste disposed of during the period of disqualification.

"(9) If a municipality is notified by the President or by a State with a program approved under section 402(b) of the Federal Water Pollution Control Act (33 U.S.C. 1342(b)) that its publicly owned treatment works is not in compliance with the requirements of paragraph (6) of this subsection, and if such noncompliance is not remedied within twelve months, the limitations imposed by this subsection on the assertion of the provisions of section 122(n) shall apply, but only with regard to the sewage sludge

generated or disposed of during the period of noncompliance."

(d) **AMOUNT OF HAZARDOUS WASTE.**—Section 122 (g)(1)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is amended by inserting the following sentence at the end thereof: "The amount of hazardous substances in municipal solid waste and sewage sludge shall refer to the quantity of hazardous substances which are constituents within municipal solid waste and sewage sludge, not the overall quantity of municipal solid waste and sewage sludge."

(e) **CONSTRUCTION.**—Nothing in this section shall modify the meaning or interpretation of the Solid Waste Disposal Act.

(f) **APPLICABILITY.**—The amendments to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 made by this section shall apply to each municipality and other person against whom administrative or judicial action has been commenced before the effective date of this Act, unless a final court judgment has been rendered against such municipality or other person or final court approval of a settlement agreement including such municipality or other person as a party has been granted. If a final court judgment has been rendered or court-approved settlement agreement has been reached that does not resolve all contested issues, such amendments shall apply to all contested issues not expressly resolved by such court judgment or settlement agreement.

Subtitle E—Counterfeit Deterrence Act of 1992

SEC. 1071. SHORT TITLE.

This subtitle may be cited as the "Counterfeit Deterrence Act of 1992".

SEC. 1072. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Shall be fined not more than \$50,000 for each violation, or imprisoned not more than 20 years, or both"; and

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

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted."

SEC. 1073. DETERRENTS TO COUNTERFEITING.

(a) **IN GENERAL.**—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the

Secretary of the Treasury, shall be fined not more than \$50,000 or imprisoned not more than 20 years, or both.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, shall be fined not more than \$50,000 for each violation, or imprisoned not more than 20 years, or both.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device:

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States."

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities."

SEC. 1074. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1), by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums";

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising."

SEC. MORATORIUM ON INTERSTATE BRANCHING BY SAVINGS ASSOCIATIONS.

(a) MORATORIUM.—Notwithstanding any other provision of law, no Federal savings association may establish or acquire a branch outside the State in which the Federal savings association has its home office, unless the establishment or acquisition of such branch would have been permitted by law prior to April 9, 1992.

(b) APPLICABILITY.—This section shall apply during the period beginning on the date of enactment of this Act and ending 15 months after such date.

It is the sense of the Senate that Congress needs to act immediately to forestall a possible railroad strike to occur at midnight,

tonight, since the economic ramifications of such a strike are devastating to the country, and congressional action could prevent that economic damage.

TITLE —LIMITED PARTNERSHIP ROLLUP REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Limited Partnership Rollup Reform Act of 1992".

SEC. 02. REVISION OF PROXY SOLICITATION RULES WITH RESPECT TO LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.

(a) AMENDMENT.—Section 14 of the Securities and Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

"(h) PROXY SOLICITATIONS AND TENDER OFFERS IN CONNECTION WITH LIMITED PARTNERSHIP ROLLUP TRANSACTIONS.—

"(1) PROXY RULES TO CONTAIN SPECIAL PROVISIONS.—It shall be unlawful for any person to solicit any proxy, consent, or authorization concerning a limited partnership rollup transaction, or to make any tender offer in furtherance of a limited partnership rollup transaction, unless such transaction is conducted in accordance with rules prescribed by the Commission under sections 14(a) and 14(d) as required by this subsection. Such rules shall—

"(A) permit any holder of a security that is the subject of the proposed limited partnership rollup transaction to engage in preliminary communications for the purposes of determining whether to solicit proxies, consents, or authorizations in opposition to the proposed transaction, without regard to whether any such communication would otherwise be considered a solicitation of proxies, and without being required to file soliciting material with the Commission prior to making that determination, except that nothing in this subparagraph shall be construed to limit the application of any provision of this title prohibiting, or reasonably designed to prevent, fraudulent, deceptive, or manipulative acts or practices under this title;

"(B) require the issuer to provide to holders of the securities that are the subject of the transaction such list of the holders of the issuer's securities as the Commission may determine in such form and subject to such terms and conditions as the Commission may specify;

"(C) prohibit compensating any person soliciting proxies, consents, or authorizations directly from security holders concerning such a transaction—

"(i) on the basis of whether the solicited proxies, consents, or authorizations either approve or disapprove the proposed transaction; or

"(ii) contingent on the transaction's approval, disapproval, or completion;

"(D) set forth disclosure requirements for soliciting material distributed in connection with a limited partnership rollup transaction, including requirements for clear, concise, and comprehensible disclosure, with respect to—

"(i) any changes in the business plan, voting rights, form of ownership interest or the general partner's compensation in the proposed limited partnership rollup transaction from each of the original limited partnerships;

"(ii) the conflicts of interest, if any, of the general partner;

"(iii) whether it is expected that there will be a significant difference between the exchange values of the limited partnerships and the trading price of the securities to be

issued in the limited partnership rollup transaction;

"(iv) the valuation of the limited partnerships and the method used to determine the value of limited partners' interests to be exchanged for the securities in the limited partnership rollup transaction;

"(v) the differing risks and effects of the transaction for investors in different limited partnerships proposed to be included, and the risks and effects of completing the transaction with less than all limited partnerships;

"(vi) a statement by the general partner as to whether the proposed limited partnership rollup transaction is fair or unfair to investors in each limited partnership, a discussion of the basis for that conclusion, and the general partner's evaluation, and a description, of alternatives to the limited partnership rollup transaction, such as liquidation;

"(vii) any opinion (other than an opinion of counsel), appraisal, or report received by the general partner or sponsor that is prepared by an outside party and that is materially related to the limited partnership rollup transaction and the identity and qualifications of the party who prepared the opinion, appraisal, or report, the method of selection of such party, material past, existing, or contemplated relationships between the party, or any of its affiliates and the general partner, sponsor, successor, or any other affiliate, compensation arrangements, and the basis for rendering and methods used in developing the opinion, appraisal, or report; and

"(viii) such other matters deemed necessary or appropriate by the Commission;

"(E) provide that any solicitation or offering period with respect to any proxy solicitation, tender offer, or information statement in a limited partnership rollup transaction shall be for not less than the lesser of 60 calendar days or the maximum number of days permitted under applicable State law; and

"(F) contain such other provisions as the Commission determines to be necessary or appropriate for the protection of investors in limited partnership rollup transactions.

The disclosure requirements under subparagraph (D) shall also require that the soliciting material include a clear and concise summary of the limited partnership rollup transaction (including a summary of the matters referred to in clauses (i) through (vii) of that subparagraph) with the risks of the limited partnership rollup transaction set forth prominently in the forefront thereof.

"(2) EXEMPTIONS.—The Commission may, consistent with the public interest, the protection of investors, and the purposes of this Act, exempt by rule or order any security or class of securities, any transaction or class of transactions, or any person or class of persons, in whole or in part, conditionally or unconditionally, from the requirements imposed pursuant to paragraph (1) or, from the definition contained in paragraph (4).

"(3) EFFECT ON COMMISSION AUTHORITY.—Nothing in this subsection limits the authority of the Commission under subsection (a) or (d) or any other provision of this title or precludes the Commission from imposing, under subsection (a) or (d) or any other provision of this title, a remedy or procedure required to be imposed under this subsection.

"(4) DEFINITION.—As used in this subsection the term 'limited partnership rollup transaction' means a transaction involving—

"(A) the combination or reorganization of limited partnerships, directly or indirectly, in which some or all investors in the limited

partnerships receive new securities or securities in another entity, other than a transaction—

“(i) in which—

“(I) the investors' limited partnership securities are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A; and

“(II) the investors receive new securities or securities in another entity that are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

“(ii) involving only issuers that are not required to register or report under section 12 both before and after the transaction;

“(iii) in which the securities to be issued or exchanged are not required to be and are not registered under the Securities Act of 1933;

“(iv) which will result in no significant adverse change to investors in any of the limited partnerships with respect to voting rights, the term of existence of the entity, management compensation, or investment objectives; or

“(v) where each investor is provided an option to receive or retain a security under substantially the same terms and conditions as the original issue; or

“(B) the reorganization of a single limited partnership in which some or all investors in the limited partnership receive new securities or securities in another entity, and—

“(i) transactions in the security issued are reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

“(ii) the investors' limited partnership securities are not reported under a transaction reporting plan declared effective before January 1, 1991, by the Commission under section 11A;

“(iii) the issuer is required to register or report under section 12, both before and after the transaction, or the securities to be issued or exchanged are required to be or are registered under the Securities Act of 1933;

“(iv) there are significant adverse changes to security holders in voting rights, the term of existence of the entity, management compensation, or investment objectives; and

“(v) investors are not provided an option to receive or retain a security under substantially the same terms and conditions as the original issue.

“(5) EXCLUSION.—For purposes of this subsection, a limited partnership rollup transaction does not include a transaction that involves only a limited partnership or partnerships having an operating policy or practice of retaining cash available for distribution and reinvesting proceeds from the sale, financing, or refinancing of assets in accordance with such criteria as the Commission determines appropriate.”

(b) SCHEDULE FOR REGULATIONS.—The Securities and Exchange Commission shall, not later than 12 months after the date of enactment of this Act, conduct rulemaking proceedings and prescribe final regulations under the Securities Act of 1933 and the Securities Exchange Act of 1934 to implement the requirements of section 14(h) of the Securities Exchange Act of 1934, as amended by subsection (a).

SEC. 03. RULES OF FAIR PRACTICE IN ROLL-UP TRANSACTIONS.

(a) REGISTERED SECURITIES ASSOCIATION RULE.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

“(12) The rules of the association to promote just and equitable principles of trade,

as required by paragraph (6), include rules to prevent members of the association from participating in any limited partnership rollup transaction (as such term is defined in section 14(h)(4)) unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

“(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

“(B) the right not to have their voting power unfairly reduced or abridged;

“(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

“(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term ‘dissenting limited partner’ means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership rollup transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the association during the period in which the offer is outstanding and complies with such other procedures established by the association.”

(b) LISTING STANDARDS OF NATIONAL SECURITIES EXCHANGES.—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

“(g) The rules of the exchange prohibit the listing of any security issued in a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

“(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

“(B) the right not to have their voting power unfairly reduced or abridged;

“(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

“(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term ‘dissenting limited partner’ means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the exchange, except that for purposes of an exchange or tender offer, such term means any person who files an objection in writing under the rules of the exchange during the period in which the offer is outstanding.”

(c) STANDARDS FOR AUTOMATED QUOTATION SYSTEMS.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(b)) is amended by adding at the end the following new paragraph:

“(13) The rules of the association prohibit the authorization for quotation on an automated interdealer quotation system sponsored by the association of any security des-

ignated by the Commission as a national market system security resulting from a limited partnership rollup transaction (as such term is defined in section 14(h)(4)), unless such transaction was conducted in accordance with procedures designed to protect the rights of limited partners, including—

“(A) the right of dissenting limited partners to an appraisal and compensation or other rights designed to protect dissenting limited partners;

“(B) the right not to have their voting power unfairly reduced or abridged;

“(C) the right not to bear an unfair portion of the costs of a proposed rollup transaction that is rejected; and

“(D) restrictions on the conversion of contingent interests or fees into non-contingent interests or fees and restrictions on the receipt of a non-contingent equity interest in exchange for fees for services which have not yet been provided.

As used in this paragraph, the term ‘dissenting limited partner’ means a holder of a beneficial interest in a limited partnership that is the subject of a limited partnership transaction who casts a vote against the transaction and complies with procedures established by the association, except that for purposes of an exchange or tender offer such term means any person who files an objection in writing under the rules of the association during the period during which the offer is outstanding.”

(d) EFFECT ON EXISTING AUTHORITY.—The amendments made by this section shall not limit the authority of the Securities and Exchange Commission, a registered securities association, or a national securities exchange under any provision of the Securities Exchange Act of 1934, or preclude the Commission or such association or exchange from imposing, under any other such provision, a remedy or procedure required to be imposed under such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective 18 months after the date of enactment of this Act.

“SEC. . STUDIES ON THE EFFECTIVENESS OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT.

“(a)(1) The Administrator of United States Environmental Protection Agency shall provide to the Congress by December 31, 1992, a detailed report which provides information on each of the sites contained on the National Priorities List established where the Comprehensive Environmental Response, Compensation and Liability Act. Such report shall be updated periodically as new information becomes available and shall, at a minimum, include the following information about each site:

(A) Site name, number, state and total number of operable units;

(B) Whether a removal action has occurred, and if so, whether it was fund-financed or PRP-financed;

(C) Date proposed for CERCLIS investigation, preliminary assessment completed, site investigation completed, HRS completed, proposed for the National Priorities List; current stage in process; time-frame taken for (i) site investigation, (ii) remedial investigation, (iii) risk assessment, (iv) feasibility study, (v) record of decision, (vi) remedial design and (vii) other such significant actions identified by the Administrator; and whether long-term operation and maintenance is necessary;

(D) Whether remedial action is underway, when it was commenced, and whether it has

been completed and if so, when, and if not, when expected to be completed;

(E) Number and names to the extent the President deems appropriate of PRP's at site, whether PRP is bankrupt or in bankruptcy proceedings and classification of each PRP as:

- (i) owner/operator;
- (ii) transporter;
- (iii) person that arranged for disposal or treatment;
- (iv) municipality;
- (v) State agency;
- (vi) lender or State or Federal lending agency; or
- (vii) Federal agency; any other entity and
- (viii) that portion of the site that cannot be attributed to any potentially responsible party. Including the dollar amount and volumetric share.

(F) Site classification;

(G) Whether the facility is still in operation;

(H) Number of Records of Decision to be issued;

(I) Description of elements of removal and/or remedial action.

(J) Total actual dollar amount, both Fund and PRP costs, for (i) site study and investigation, (ii) transaction costs, (iii) initial removal or remedial action, (iv) operation and maintenance, and estimated cumulative and continuing costs for the final remedial action the agency is seeking or has been agreed to by settlement;

(K) Whether there has been a settlement agreement, and if so, (i) percent of PRP's who settled, (ii) percent of costs covered, (iii) percent of settled costs for each PRP, compared to the percent of volume and of toxicity of waste for which each was responsible, (iv) percent of cost recovery achieved through de minimis settlements and the number of PRP's in that group, (v) the percent of costs paid for by the Fund, based on a mixed-funding determination, and (vi) the amount of money spent by the Fund, a State or by PRP's for RI/FS/ROD; RD/RA; and operation and maintenance;

(L) Dollar amount of Remedial Investigation/Feasibility Study (RI/FS) settlement, compared to the total cost of (RI/FS);

(M) Dollar amount of remedial action settlement, compared to the total cost of remedial action;

(N) Description of settlement and enforcement activities;

(O) Number of third party contribution actions that have been filed, including, but not limited to, actions to bring additional PRP's into cost-recovery and litigation involving insurance coverage; and

(P) Identification and description of each site which has been cleaned up and removed from the National Priorities List.

"(2) The Administrator shall establish and maintain in a computer data base the information contained in the report required under paragraph (1). The Administrator shall make these data accessible by computer telecommunication and other means to any person on a cost-reimbursable basis.

"(3) In submitting the report the Administrator shall include a summary of the costs incurred in preparing the report.

"(b) The General Accounting Office shall undertake a comprehensive review of relevant governmental and other studies assessing the effectiveness of such Act, and shall provide to the Congress by July 1, 1993, a report in which an objective evaluation of each study is provided. Such report shall be updated every six months, as appropriate, to provide the Congress with an evaluation of any additional studies that have been issued.

"(c)(1) No later than September 30, 1993, the Administrator of EPA, and in consultation with ATSDR, the National Academy of Sciences and the National Academy of Engineering, shall provide a report to the Congress which examines a statistically significant number of sites listed on the National Priorities List, which in no event shall be less than 40 sites. Such report shall discuss with respect to each site the present or future risks, based on actual exposure data or estimates, to human health and the environment presented by the site.

"(2) The report shall examine methods to (A) ensure that costs and effectiveness of remedial measures adopted for individual sites are reasonably appropriate to the risks presented by such sites; and (B) utilize the information identified in paragraph (1) in order to determine appropriate remedial action at individual sites.

"(3) The report shall examine the uses of each of the sites after a removal action or other interim action or a remedial action or any other response has been completed, taking into consideration the implications of land use policy at such sites and the effect of post-cleanup liability on future uses.

"(4) The Administrator of the U.S. Environmental Protection Agency shall provide a reasonable opportunity for written comments on the report prior to its submission to the Congress. Such comments shall be included in the Report as part of the submission to the Congress."

SASSER AMENDMENT NO. 2450

Mr. SASSER proposed an amendment to amendment No. 2437 proposed by Mr. RIEGLE to the bill S. 2733, supra, as follows:

At the appropriate place insert the following:

"SEC. . PRESIDENT'S BUDGET.

"(a) It is the sense of the Congress that the Bush budget should not be enacted as it:

"(1) fails to invest in human or physical infrastructure which is critical to increased productivity and economic growth;

"(2) offers no plan to deal with health care costs or access;

"(3) allows the national debt to increase to \$5.918 trillion by 1997;

"(4) leaves a budget deficit of \$303.6 billion by 1997;

"(5) proposes a revenue hemorrhaging capital gains tax cut for the same wealthy Americans who benefited from the misguided policies of the 1980's;

"(6) reduces defense spending by only \$26 billion from 1992 through 1997 and spends a total of \$1.4 trillion over the next five years, despite the collapse of the Soviet Union;

"(7) offers no plan for converting our defense industry and personnel to a civilian economy;

"(8) cuts medical care to the elderly and raises the hospital insurance tax, for a total of \$22 billion in savings; and

"(9) relies on a dubious accounting gimmick to claim \$38 billion in false savings."

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a joint hearing has been scheduled before the

Committee on Energy and Natural Resources and the Subcommittee on Energy and Water Development of the Committee on Appropriations.

The purpose of the hearing is to receive testimony on the superconducting super collider.

The hearing will take place on Tuesday, June 30, 1992, at 9:30 a.m. in room SH-216 of the Hart Senate Office Building, First and C Streets, NE., Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Attention: Paul Barnett.

For further information, please contact Paul Barnett of the committee staff at 202-224-7569.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, will hold a hearing on cosmetic standards and pesticide use on fruits and vegetables on Thursday, July 2, 1992, at 9:30 a.m., in SR-332. Senator WYCHE FOWLER will preside.

For further information please contact Woody Vaughan of the Agriculture Committee staff at X4-5207.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 24, 1992, to receive testimony on S. 2851, a bill to provide for the management of Pacific yew on public lands, and on national forest lands reserved or withdrawn from the public domain, to ensure a steady supply of taxol for the treatment of cancer and to ensure the long-term conservation of the Pacific yew, and for other purposes.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 24, 1992, at 10 a.m. for a hearing on the health care crisis: human impact of abuses by health insurers.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CONRAD. Mr. President, I ask unanimous consent that the Select

Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 24, 1992, at 2 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON THE CONSUMER

Mr. CONRAD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 24, 1992, at 10 a.m. on S. 2232—automobile labeling.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 24, at 2:30 p.m. to hold ambassadorial nominations hearings.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. CONRAD. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Wednesday, June 24 at 9:30 a.m. in room 216 of the Senate Hart Office Building to examine the accounting process of the Department of Defense in regard to Americans missing in Southeast Asia.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CONRAD. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a markup on committee prints of bills relating to veterans' compensation (S. 2322), dependency and indemnity compensation (S. 2323), homeless veterans (S. 2512), education benefits (S. 2647), Native American veterans' home loan education benefits (S. 2528), employment and training (S. 2515), and health care (S. 2575), incorporating provisions from S. 2575, S. 2740, S. 2372, and S. 1424), and the fiscal year 1993 medical construction project-approval resolution. The markup will be held on June 24, 1992, at 10 a.m. in room 418 of the Russell Building.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, June 24, 1992, at 9 a.m., for an executive session on pending business.

AGENDA

1. S. 2060, Orphan Drug Amendments.
2. S. 2141, Long-term Care Insurance Improvement and Accountability Act.
3. S. 25, Freedom of Choice Act.

4. Nominations:

To be Commissioner of Education Statistics, Department of Education: Emerson J. Elliott, of Virginia.

To be Chief Financial Officer, Department of Education; William Dean Hansen, of Idaho.

To be Assistant Secretary for Policy and Planning, Department of Education; Bruno Victor Manno, of Ohio.

To be a member of the National Commission on Libraries and Information Science: Shirley Gray Adamovich, of New York.

To be a member of the National Science Board, National Science Foundation; F. Albert Cotton, of Texas; Charles E. Hess, of California; and James L. Powell, of Pennsylvania.

Routine List of Public Health Service Corps (list numbers 945, 946 and 961).

Matters not reached or completed will be continued in executive session on Wednesday, July 1, 1992.

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

ADDITIONAL STATEMENTS

BETTY FAKE, MEDICAL MISSIONARY

• Mr. COHEN. Mr. President, as the ranking member of the Special Committee on Aging, it gives me great pleasure to share with my colleagues the story of an extraordinary older American with an extraordinary mission.

Betty Fake is a registered nurse, who lives in Lewiston in my home State of Maine. Following the death of her husband, Mrs. Fake revived her girlhood dream of becoming a medical missionary—a dream that would take her to remote regions of the Earth to care for the sick and the impoverished.

With the sponsorship of a church missionary group, Mrs. Fake has volunteered her own time and money over the years to assist other missionaries in bringing medical care and supplies to communities in Appalachia, India, and the Philippines, that do not regularly have access to a doctor or nurse.

As an older American, Mrs. Fake has set the example for senior citizens who desire to put their time and energies toward volunteer work in their own communities or in projects reaching out to communities across the globe.

Carol Coultas recently profiled Mrs. Fake and the missions she has gone on in an article in the *Maine, Sunday, Telegram*. I would like to enter the text of the article into the RECORD, and I hope that my colleagues will be inspired to read Mrs. Fake's story.

The article follows:

POVERTY SPOTS LURE LEWISTON NURSE

(By Carol A. Coultas)

LEWISTON.—As a young girl growing up in Connecticut, Betty Fake decided she wanted to be a medical missionary. More than 50 years later, she got her chance.

"I guess you're never too old to fulfill a dream," she said, smiling from an easy chair in her sunny Central Avenue apartment in

Lewiston. But her desire to deliver health care to the poor was set aside first by World War II, then marriage and four children. Her husband's death in 1982 prompted her to re-examine her life and revive her dream.

A registered nurse, Fake uses her own money to visit poor regions of the world to dispense medical care. Since 1987, she has seen her dream played out in the valleys of Appalachia, the arid plains of India and the verdant mountains of the Philippines.

"Some days we would see between 300 and 400 people at a time," she said of her time in the Philippines. "A lot of what we saw, we couldn't do anything about . . . most of it was a result of malnourishment . . . but we did what we could."

Fake makes her trips under the auspices of the United Methodist Church's Short-term Volunteers in Missions program. The church identifies areas of need and assembles a group, but participants pay their own transportation and room and board once they get to their destination.

Fake began her volunteer mission work in 1987 when she spent a summer deep in the mountains of Appalachia. Nurses in a local hospital hadn't had a vacation in over two years, because there was no money to put for substitutes. Fake spent her time working in the hospital and riding on an ambulance, as well as making day trips to little towns where she performed a myriad of medical services.

Next she went to India for three weeks, where she saw medical condition in hospitals and clinics "that were like ours in the 1930s and 1940s."

In 1989 and again this February she went to the Philippines where she helped administer care to people in isolated regions.

Most of the medical attention Fake delivers is restricted by the supplies she can buy and bring with her. Before setting out on a trip, she packs as much rash ointment, bandages, antiseptic, thermometers, vitamins, blood pressure cuffs and aspirin as she can manage. It's not much of an arsenal against diseases such as tuberculosis, but it gets people out to receive rudimentary care.

"In the Philippines, we would go into a tiny village and someone would put a table and couple of chairs right in the middle of the street and everyone would come to see us," she said of the traveling medical clinic.

During her first trip to the Philippines the group she was with brought \$4,000 worth of prescription drugs that were confiscated at customs. The group had to pay a \$100 bribe (down from \$1,000 initially, she said) to reclaim the drugs.

Another time, she recounts, the Rotary Club International sent enough polio vaccine to India to immunize every child in the country. But medical workers couldn't get parents to bring their children for the immunization because of mistrust of medical professionals.

"In India, there are still a lot of medicine men in the villages," she said. "People go there first when they're sick, then to the white people's hospital after the disease has progressed."

"Of course often the person dies and that spreads rumors that hospitals kill people."

In the Philippines she accompanied a young man to a hospital after he dropped a cement mixer on his toe. He spent all day waiting to be examined. When he finally saw the doctor, the physician removed some of the injured toenail and sent him home with a bill that was more than a day's pay.

While lack of medical technology, poor accessibility and cultural ignorance all play a

part in preventing the sick from regaining their health, Fake said far and away the worst problem she encountered was one of a lack of nutrition.

Slash-and-burn practices in India have turned much of that country's farmland into desert, making food difficult to grow and requiring more expensive imports. In the Philippines, the diet consists mainly of dried fish and rice with little or no dairy products.

Even in the U.S., people don't eat well. She said in Appalachia, lard is sold in huge drums and people use it to cook almost everything.

Historically these mountain people grew their own food in backyard gardens. But a way of life has changed. Nearly 80 percent of the people Fake assisted during her time there were welfare recipients and bought their food rather than growing it. The result was a lot of poorly fed people who were passing their bad eating habits on to the next generation.

"I saw a lot of 2- and 3-year-olds running around with sodas," she said.

The effects of poverty were most evident on children, no matter where she went. In fact the sight of malnourished children with swollen bellies was so distressing, after her visit to India, Fake said she wasn't going to participate on any other missions. She returned to Lewiston and her job conducting physical exams for insurance companies, hoping her church and volunteer activities would satisfy her.

But complacency doesn't sit well with Fake. A woman of deep religious convictions, she says she feels an obligation to give back some of the blessings of her life to others less fortunate.

"I'm not content to be the usual over-60 widow," she said. "My desire, my motivation is oriented in my faith because I believe that we need to take care of our sisters and brothers."

She said once she replenishes her bank account (each trip cost approximately \$2,000), she'll see where the next opportunity crops up for her expertise.

"As long as I'm physically able, when the opportunity arises and I have the money, I'm likely to go."*

PEORIA WEATHERS AN ECONOMIC STORM

• Mr. SIMON. Mr. President, from the barbershops and health clubs to the banks and bowling alleys, there is a new spirit evident on the faces of Peorians these days.

The devastation of a decade-long recession, the harm done to Peoria's exports by Federal deficits, and two agonizing labor disputes have put Peoria to the test.

Mr. President, Peoria has risen to the challenge.

Peoria was listed in U.S. News & World Report 2 years ago as one of the boomtowns of the United States. This quiet midwestern city of 113,000 people has done its share of bleeding from these economic wounds these past few years, but unlike many other rust belt communities, Peoria is on a remarkable rebound.

Much of this is happening not because of, but in spite of flawed Federal policies that have done great damage to our industrial base. When our manu-

facturing sector is harmed, high-skill jobs are lost, and many Peorians have put on hold their visions of a better life. We know this is a year of political discontent, and such cynicism and anger is thriving in middle America, including Peoria, for these reasons and many others.

Peoria's efforts to adjust and to prepare for the 21st century is instructive. Writer Thomas Edsall recently offered a snapshot of Peoria's experience.

Mr. President, I ask that a June 20 article about Peoria from the Washington Post be printed in the RECORD.

The article follows:

[From the Washington Post, June 20, 1992]

IN PEORIA, WHAT "PLAYS" IS POLITICAL ANXIETY, DISCONTENT
(By Thomas B. Edsall)

PEORIA, ILL.—Over the last 15 years, Ray Thomasson watched as thousands of less senior co-workers had their jobs eliminated at the Caterpillar Inc. tractor plant here. When he went on strike last fall, his employer for virtually his entire working life threatened to replace him and every other skilled worker by hiring men and women right off the street. And his union, the once-powerful United Auto Workers of America, could not stand up for him, capitulating to Caterpillar in April after a bitter five-month walkout.

"The labor movement don't have a leg to stand on. We are at the mercy of the company," said Thomasson. "It's kind of scary."

Thomasson, 49, has so far survived what has been a devastating upheaval for another generation of workers in Peoria who went to work after high school in the 1970s fully expecting the security of a home, boat and summer place on the lake in a city where hard work was always rewarded with good pay.

The experience has changed him politically but also left him more than a little confused. "I was born a Democrat and raised a Democrat," he said, "but for the last 15 years I've been voting Republican." Now, he is more inclined to vote Democratic, but worries about a party that supports abortion and gay rights.

Four years later, the themes of the 1988 campaign—Willie Horton, the death penalty and the American Civil Liberties Union—still echo for Thomasson, undermining his inclination to return to the party of his childhood, even one committed to passing legislation barring the kind of full-scale replacement worker policies that Caterpillar threatened to use to break the UAW strike.

In both his anxiety and his ambivalence, Thomasson reflects the effects that years of economic turbulence have had in changing the thinking of the voters and leaders of Peoria. Here in the city once so secure as a bastion of middle American values that "Will it play in Peoria?" became a litmus test for conventionality, the forces of globalized economic competition, racial division and the growing disparities between rich and poor have combined with devastating consequences for the traditional middle class.

Unlike Detroit, the economic upheaval has not left Peoria bleeding and wounded, a casualty of the world marketplace. Instead, like some other cities in the industrial heartland, such as Akron and Pittsburgh, where the collapse of the rubber and steel industries produced local depressions almost matching the 1930s, Peoria in general is emerging from the depths of a collapse.

But there is no doubt about the toll the 1980s exacted: The bottom fell out of the real estate market, unemployment at one point approached 20 percent, bankruptcies hit 2,300 in 1984 and hundreds of people abandoned their homes, decimating some of the city's oldest working-class neighborhoods.

During the 1980s, the Democratic Party, which did not emerge as a force even during the Great Depression of the 1930s, began to show some muscle, winning county-wide seats, but that movement appears to have slackened. In a number of contests in the 1980s, the city's congressman, Rep. Robert H. Michel, the House Republican leader, was hard pressed by a Democratic challenger, but in 1990, Michel won with 98 percent of the vote.

The seeming return to Republican hegemony does not, however, reflect the growing political anxiety and confusion emerging in part from the radical changes the city has undergone. The anxiety has created a clear opening for the independent presidential candidacy of Ross Perot, who, though still a shadowy unknown, appeals to persons of a range of ideological stripes on the notion that perhaps a tough, successful businessman is what is needed to restore direction and purpose to a government that seems to undermine the very goals it is supposed to enhance.

From 1980 to 1990, Peoria's population fell from 124,157 to 113,852. The number of whites fell from 101,447 to 86,852, while the number of blacks grew from 20,467 to 23,692, with modest growth among a scattering of other groups. In a matter of just 13 years, the number of manufacturing jobs in the area fell from 53,550 in 1978 to 32,000 in 1991. In their place have sprung up a growing number of jobs in the medical and academic communities, and in other service industries filled by workers with much higher skills who have moved to an affluent suburbia that has grown within city boundaries on the north side of town.

The division between rich and poor is most visible in the city's schools.

"We don't have the middle group any more," said John M. Strand, Peoria's superintendent of schools. "What we've got is an unusual school system which in the past 10 years has gone from a predominantly white and a combination of working- and middle-class professional families" to a system increasingly bifurcated by income and, in part, by race.

On the one side, he said, there are students from "middle-class professional families, black or white, and they are headed off into college preparatory programs," and on the other side are youngsters whose family income is low enough to qualify for free federal lunches. "The number of minority students has more than doubled, and the number of low-income students has more than doubled," each from about 20 to 45 percent, he said.

As manufacturing employment nose-dived, the school system lost students from families making "\$30,000 . . . \$40,000 a year . . . solid B and C students . . . [who] don't have higher aspirations as far as college or graduate schools, but they are the sort of basic, solid citizens that every school depends on," Strand said.

Just as the disparity in income has increased, so has the gap in test scores. "You get a bunch of kids in the 80th percentile and a bunch of kids at the 30th percentile. It averages out to 55, but in fact there are very few kids at that level," he said. "We have an inner-city school system and a suburban system in one school system."

In the face of increasing economic and class polarization, the one message that came through in interviews with a wide variety of city residents is the sense that the federal government has failed to do anything to stop this process and that the programs associated with it are in fact doing harm to those who need help.

The lightning rod for this discontent is welfare, which is widely seen as compounding misery by undercutting initiative and institutionalizing dependency. But voters and officials contend failure is endemic in programs ranging from trade policy to corporate tax subsidies.

For example, if welfare is viewed as the financial underpinning for lack of productivity, then the city's three major public housing projects—Taft, Harrison and Warner—are seen as creating isolated concentrations of the black poor, making all the more intractable the problems of the underclass. In a city desegregated by federal and state law, "the biggest segregated area" left in the city is the federally financed public housing projects, said Strand.

Gordon Gilomen, a 45-year-old mechanic who is active in citywide parent-teacher organizations, is more specific in blaming welfare.

"I think the welfare was the worst thing that happened to poor people," he said. "I think there is nothing wrong with helping a person who gets themselves in a bind somehow. I think the attitude of the lower class, of the low economic people, has been affected by welfare. I think they see it as a free ride, and it is."

Gilomen does not blame the recipients, as much as the system itself. "You can't expect anyone to say, 'I've got to work at McDonalds and it's going to cost me \$75 a week [in lost benefits], and I'm going to lose my medical.' They are not stupid enough to do that. If we are stupid enough to pay them not to [work], what kind of message does that send?"

This anger at the welfare system was voiced in even stronger terms by Nathaniel R. LeDoux, a conservative 56-year-old black city councilman who moved here from Louisiana in 1968.

"We put a great deal of emphasis on the downtrodden, but we went too far. . . . And there developed an attitude in this country of, 'I believe the world owes me something.' Those people who suffered the most were the least educated. Those blacks who were prepared and ready for integration, and I consider myself one of those, we prospered. Those people who were not prepared became even less well-off because they became crippled by a system that said, 'I will take care of you.'"

The sense that government is part of the problem and not the solution has helped changed the thinking of David Koehler, once a rock-solid liberal.

Ordained by the United Church of Christ, Koehler's first ministry was with Cesar Chavez's farm workers' union. He came here as a community organizer for Friendship House in the near Northside, a section of the city that has borne the brunt of a host of social change, absorbing the poor evicted by urban renewal, the mentally ill released from hospitals and migrant workers forced out of their camps.

"It's when people become disenfranchised and when they are not empowered to be part of the process that they basically give up," he said. Do government programs disenfranchise? he was asked. "I think that is a proven fact with how we have dealt with housing

policy and welfare—and welfare both with the poor and the subsidies we provide to industry."

Under the existing partisan structure, Koehler, argued, "We have put together policies and programs that have not been nurturing to that set of family values we should be promoting. Welfare is a good example; we set up a system that basically we break up the family. . . . we break down families among the very people we were 'trying to help'. . . . We have to see that there is responsibility all the way from the top bastion of power all the way to the bottom, and responsibility first and foremost means how do I account for my personal actions."

A similar skepticism about traditional liberal approaches showed not only in Koehler's changing views, but in the weakness of Democratic loyalties among Caterpillar workers.

Harold Hundt, who has put in 23½ years at Caterpillar, agrees with Thomasson that if a presidential candidate is "for gay rights and abortion, and was steadfast in that area, I probably would not vote for him, even if he were a Democrat."

John R. Backes Jr., a tool grinder with 18 years seniority at Caterpillar, is a firm Democrat who has no problem with gay rights and believes that in the case of abortion, the government does not "need to be telling people what to do with their lives."

But Arkansas Gov. Bill Clinton, he said, "scares me," and the prospect that Clinton might pick Jesse L. Jackson as a running mate—an improbable development widely seen as a real possibility among voters here—"would probably sink him. He might have to [pick Jackson, under pressure from blacks] and then it would hurt him. I'm not a bigot, but there are a lot of them out there, and a lot of them are Democrats. I don't think Jackson has the qualifications."

Yet even as the Caterpillar workers express their suspicion at liberal solutions, other members of their community direct criticism back at them.

LeDoux is more conservative than many of those interviewed here—a conservatism that helped get him elected citywide in this overwhelmingly white community—and he shares with much of the electorate a belief that the kind of criticisms that are leveled at welfare are applicable to a much broader range of issues facing the city and the nation.

"The notion that people now feel the world owes them something extends to the labor community, the unions. . . . I see the same mentality with Lee Iacocca who thinks he ought to be paid millions of dollars when he runs a company that loses money. It's not just limited to poor people, it's pervasive throughout our society."•

THE SALVATION ARMY

• Mr. BOND. Mr. President, I rise today to urge my colleagues in the U.S. Senate to join me in paying tribute to a remarkable philanthropic organization which has provided thousands of volunteers who aid in addressing many of the needs of the Kansas City, MO, community. I am referring to an organization familiar to you all—the Salvation Army.

The Salvation Army has served Kansas Citians for the past 105 years. The traditional programs and more innovative services that the Salvation Army

has delivered to victims of crisis or hard economic times cannot be matched. The mobile feeding canteen has served more than 350,000 meals to hungry Kansas Citians on the streets and provided shelter for more than 600 families in the Emergency Lodge.

The Salvation Army also provides programs which aid clients in becoming financially independent citizens, the employment counseling, parenting classes, and budget and financial management training provided are important in helping individuals back on their feet. Responding to increased incidents of crime against children, the Salvation Army founded the Children's Shelter. Assisting our children must be a priority and I commend the Salvation Army for their efforts in raising awareness as well as addressing the many problems our children and families face.

Mr. President, the staff and volunteers of the Salvation Army and the community of Kansas City have worked hard to acquire their new divisional headquarters. I join them in their celebration of the new headquarters. The people of Kansas City are extremely fortunate to have such an active and innovative Salvation Army. •

HAITIAN REFUGEES

• Mr. RIEGLE. Mr. President, I rise to express my support for legislation introduced by Senator KENNEDY, S. 2826, which would halt the Bush administration's forced repatriation of Haitian refugees. President Bush's policy is unjust and must be reversed.

After the ousting of former President Duvalier in 1986, Haiti enjoyed its first real opportunity for democracy. In December 1990, clergy member Jean-Bertrand Aristide was elected President, winning over 67 percent of the popular vote. Seven months later on the night of September 29, 1991, a savage military coup overthrew his democratically elected government. In its place now sits an illegal, oppressive regime headed by Joseph Nerette, considered by many to be a puppet of the Haitian armed forces.

Numerous civilians have testified to Amnesty International that violence is directed at the heart of Haiti's grass-roots infrastructure—church groups, literacy programs, public media, and small business cooperatives. Individual citizens have been terrorized by arrests and public executions. In fact, reports indicate that within 6 months of the coup, 2,000 were killed by the Army, 500 by torture, and 6,000 were wounded by gunfire.

Faced with violence, both targeted and random, as well as the lowest standard of living in the Western Hemisphere, many Haitians have fled their country by sea for America's shores. For several months, Haitians were

taken to the U.S. Naval base at Guantanamo Bay, Cuba until their claims for refugee status could be resolved. Approximately one-third have been able to make a preliminary showing that they were the object of a specific threat of violence.

Today, however, Haitians do not even have the opportunity to make a case for political asylum. On May 24, President Bush, in a reversal of earlier policy, ordered the Coast Guard to return all Haitian nationals intercepted at sea to their country without allowing them to apply for asylum. The Coast Guard now leaves the dangerously overcrowded boats to fend off the perils of the high seas without assistance. The administration also decided to close the Guantanamo Bay refugee center which has been sheltering Haitians and processing their petitions for political asylum. This policy change must not be allowed to stand.

The 1951 Geneva Convention states that no country "shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened. * * *" This determination cannot be made through a Coast Guard bullhorn in the open sea. Despite international agreement and other policies which have afforded protection to similarly afflicted groups, the President continues to return Haitians fleeing persecution.

Four months ago, I joined others in Congress calling on the President to suspend the deportation of Haitian refugees. But the deportations are continuing to this day, and President Bush still clings to his belief that, despite the brutal conditions they face, Haitians are fleeing simply to find better economic opportunities.

Mr. President, in 1939, the Roosevelt administration returned to Germany a ship filled with Jews escaping Hitler's death camps. Let us not make that mistake again. Haitian boat people merit the same protection as other refugees. I strongly support Senator KENNEDY's legislation to halt the forced repatriation of Haitian nationals and urge the Senate to act quickly to pass this measure.●

HOME COMING FOR TERRY ANDERSON

● Mr. D'AMATO. Mr. President, I rise today to pay tribute to Terry Anderson and to make note of a homecoming that we, as Americans, have waited a very long time for. This weekend something very special is happening in upstate New York. Terry Anderson returns to the place he called home while growing up: Batavia, NY. He will be welcomed by friends and family, dignitaries and supporters.

Batavia and its people have waited patiently for the return of their most famous former citizen for over half a

decade. They have waited through six long winters to share in his joy and happiness. They will recognize him not as a journalist but as a family member and friend, and most importantly, a free man.

Terry Anderson taught us how much to value our freedom over the many years of his captivity. He taught us the true definition of courage, compassion, and strength. Peggy Say, his sister, showed us how much effort and sacrifice was needed to keep him in our memories and prayers.

Just over 6 months ago, we were touched when we heard of Terry's release. He had the distinction of being the last American hostage held in Lebanon. Let us hope that with Terry's release we are able to say that it is the beginning of a new era. Let us hope that he will become known as the last American hostage ever held in Lebanon. Terry taught us much and for that we are thankful.

I read an article a number of months ago about Karen Sloan, a fellow AP colleague of Terry's, and what she did to keep the memory of Terry fresh in her mind. She wore a bracelet with the inscription "Terry A. Anderson" and in tiny letters "Hebrew 13:3." The reason that it stuck with me was because of what Hebrew 13:3 says: "Remember the prisoners as if chained with them, and those who are mistreated, since you yourselves are also in the body."

For the past 6 years we have done our best to remember Terry and work for his release. We have used these 6 long years to remember, to hope, and to pray. William Ahearn, AP executive editor, kept his own vigil. He kept track of the days that Terry was in captivity on the wall of the AP cafeteria. When he was released on December 4, 1991, Ahearn toasted Terry, took the numbers off the sign and tucked them into his pocket. This was his form of tribute and remembrance for Terry. This weekend we all will rejoice and revel in his freedom and what he has to offer us as a Nation and as a people.

Lastly, I would like to make it known that my deep-felt prayers and thoughts are with Terry Anderson and his family and friends at this joyous time in their lives, just as they were in the darker times. Now it is time for Terry to celebrate with his wife and with his daughter, whom he met only 6 short months ago, and with the rest of his family.

Terry has taught us a great deal about the American spirit, but more importantly, he has shown us what the human spirit is all about. Terry has acted as a mirror and shown us what being an American is all about. Let us pay close attention to what Terry has to offer us, and I am sure that we will learn something about ourselves. This weekend I will think of Terry, a great American, indeed a great New Yorker,

who is today a free man and has come home.●

THE 10TH ANNIVERSARY OF THE DEATH OF VINCENT CHIN

● Mr. CRANSTON. Mr. President, nearly 10 years ago, Vincent Chin, an Asian-American of Chinese descent, was tragically beaten to death.

The circumstances of Vincent Chin's death shocked the Nation and raised the public's awareness about hate crimes against Asian-Americans. On the eve of his wedding, Vincent Chin met with friends at a Detroit bar. While at the bar, he was harassed by two unemployed autoworkers who called him "Jap" and blamed him for the plight of the American auto industry. They chased Vincent, then beat him to death with a bat.

Asian-Americans have been victims of hate crimes from the time they stepped foot in the United States. In the 1800's, political parties adopted anti-Chinese platforms, organizations formed on anti-Chinese bases and the media promoted anti-Chinese sentiments. Chinese were massacred in Los Angeles, San Francisco, and Chico, CA. Later, Japanese and Filipinos became targets of anti-Asian sentiment.

Unfortunately, the legacy of violence against Asian-Americans continues. Indeed, a February 1992 report by the U.S. Commission on Civil Rights found that Asian-Americans are often victims of violence. The killings of Vincent Chin in 1982, Navroz Mody in 1987, Jim (Ming Hai) Loo in 1989, and Hung Troung in 1990 and the Stockton schoolyard massacre in 1989 of five Southeast Asian children are a few recent cases of violent crimes against Asians.

Much of this violence is attributable to cultural misunderstandings, resentment, frustration, and the model minority stereotype that exacerbates tensions between Asians and non-Asians. Certainly, some Asian-Americans have made great strides in American society; however, many Asian-Americans face the myriad of problems currently plaguing millions of other Americans such as unemployment, poverty, teenage pregnancy, high school dropout rates, drug abuse, and AIDS, just to name a few. The model minority stereotype serves only to obscure these pressing concerns and fosters tensions between Asians and non-Asians.

Today, communities all over the country are remembering Vincent Chin in their effort to raise the level of awareness about hate crimes. As we remember the circumstances of Vincent Chin's death, we should recognize what divides us as a society, overcome these obstacles, and build a community of understanding and respect between all races.

Nine years ago on June 21, 1983, in observance of the first international day

of remembrance for Vincent Chin, I spoke on the Senate floor and reminded my colleagues that—

*** (S) seeking adequate punishment of Vincent Chin's persecutors is not enough.

We must continue to seek a just society for all Asian-Americans and indeed for all our people.

We will not fulfill our national commitment until all are treated equally before the law, and until each has equal opportunity, regardless of color, gender, religion or handicaps, ethnic or national origin, to participate fully in our Nation's economic, social and political processes.

Mr. President, we have much work left to do.

Mr. President, I ask that an article which appeared in the Washington Post yesterday describing some problems facing Asian-Americans appear in the RECORD.

The article follows:

[From the Washington Post, June 22, 1992]

MYTH OF MODEL MINORITY HAUNTS ASIAN AMERICANS

(By Al Kamen)

LOS ANGELES.—The images are familiar: Armed with little more than a will to succeed, they open stores where no other entrepreneur will venture. They streak to the top in the technical worlds of computers and mathematics. Their workers are the most dedicated and tireless, their children are the smartest. They are wealthy and self-sufficient.

This is the widespread view of Asian Americans, often hailed as the nation's "model minority." But there are other Asian Americans, many of them first-generation immigrants, many American-born, whose lives belie the stereotype of the nation's fastest growing minority group.

Living in bare, boarding-house rooms in "Chinatowns" here and elsewhere, sleeping in parking lots in "Little Tokyos," dropping out of school and losing jobs, there are those in the Asian-American community who have failed to make it into the American mainstream. And while there are many Asian Americans with incomes far above the U.S. median, many also fall far below it.

The model-minority stereotype is "a seductive and attractive proposition" that reinforces the American dream, said Ki-Tack Chun in a recent U.S. Civil Rights Commission report on Asian Americans. But it also has "damaging consequences," he said, because it causes people to ignore the real problems facing Asian Americans.

The "mythology" of success "has been an enormous disservice to Asian Americans who find this characterization does not at all reflect their own experience," said Grace Yun, visiting professor of Asian-American studies at Wesleyan University. "Because of this image, the needs of many Asian Americans who are poor, homeless, drug abusers or school dropouts are not even being identified, much less met."

Critics say the stereotype not only ignores the plight of those who don't fit, it overstates the achievements of Asian Americans glossing over huge differences within a group of people who come from more than two dozen countries and include Asian Indian professionals and Vietnamese peasants.

Worse, they say, it exposes Asian Americans to resentment and racial hostility and exacts a heavy toll in the stress it places on many, especially students, who can't live up to those high expectations.

Advocates and scholars concede that many Asian Americans, including recent immigrants, have done very well economically. Median household income for Asian Americans is 18 percent higher than that of whites, according to 1990 census data, double that of blacks and 70 percent higher than Hispanic household income. Some Asian-American groups, such as the long-established Japanese, enjoy incomes as much as one-third higher than the national average.

But incomes of the more recently arrived Southeast Asians are 35 percent lower than the national average. The welfare rate for Vietnamese families in 1980 was 28.1 percent, according to census data, higher than that for blacks or Hispanics. In California, where 40 percent of all Asian Americans live, 14.3 percent were living in poverty in 1990, compared to a white rate of 9.1 percent, and a rate of 21.1 percent for blacks and 21.6 percent for Hispanics.

Even the perception of higher family incomes for some Asian Americans may be "an artifact created by Asian Americans' concentration in high cost-of-living areas [and] the larger number of workers in many Asian American families," according to the U.S. Civil Rights Commission report.

Asian-American advocates argue that poverty is substantial not just among recent immigrants, but even within the more affluent groups—the 1.6 million Chinese, 800,000 Koreans and 800,000 Asian Indians. Those three groups all had higher median household incomes than non-Hispanic whites, according to 1980 data, the latest available, yet each group also had higher poverty rates than the national average.

More recent research indicates that the 1990 census data will show an even higher level of poverty for both Southeast Asians and for Asians as a whole, according to Sharon M. Lee, professor of sociology at the University of Richmond.

Asian-American poverty is readily apparent, activists say, for anyone who looks more closely.

INCREASE IN HOMELESSNESS

Los Angeles' bustling Chinatown seems a picture of prosperity—tourists and local residents crowd the sidewalks at lunchtime, sampling the colorful imported goods and exotic foods in brightly lit stores and restaurants.

But tucked away above the businesses there is another reality: Hundreds of elderly Chinese live in gloomy squalor in dilapidated boarding houses, sharing dingy communal bathrooms and kitchens.

One elderly couple, Hus Zai Huang, 87, and his wife, Rui Chan Wen, 86, came here from China eight years ago to be near their five children, all of whom immigrated to California in the last 25 years. One son lives in a nearby suburb, the other children live in the San Francisco area.

Their tiny, second-floor room is lit by a single bare bulb dangling from the ceiling. The landlord intends to tear down the deteriorating building. The communal kitchen has been closed as a fire hazard; the communal bathrooms leak. The Huangs and 30 other elderly Chinese tenants, living on welfare and almost all unable to speak English, are terrified they will have nowhere to go.

Even so, the Huangs don't regret leaving China. "Of course America is better," Huang said. "We are talking about a communist country. At least here I have a room. In China we never had enough to wear." The communists, his wife said, "took everything we had away. They took all our money, we had no clothes."

"If you kick us out, Huang said, "we will have nowhere to go." He said his son's family could not take them in if they were evicted. "They have no place for us to stay. He's put a waiter in a restaurant. He rents his apartment."

Even among the Japanese Americans, the wealthiest Asian-American group, there is a small but increasing number of homeless people. A Little Tokyo social service agency here is helping almost 200 people find places to stay, up from only 19 cases five years ago. "We feel this is just the tip of the iceberg," said Shauna Y. Ito, who runs the agency's homeless preservation program.

Ito's clients face the prospect of life on the streets for the same reasons as other people: joblessness, drug abuse, psychiatric problems and other ills.

Larry Alzumi, a 43-year-old cab driver who was born in Massachusetts, lost his savings, more than \$10,000, and his apartment in a five-month gambling binge while on vacation in Las Vegas last winter. Ichiko Nishita, a 67-year-old widow who came here 31 years ago, lost her job after she injured her ankle in a fall and then couldn't pay her rent or find a place she could afford.

California-born Masao Kaname, 55, an unemployed welder, spent a month last winter sleeping in a parking lot, going to the Central Union Mission for free meals.

Kaname, whose family lost a farm during the internment of Japanese Americans during World War II, said he knew most people, even other Japanese Americans, would find his situation unusual. "There were a whole lot of people sleeping out there" on the lot, he said, but he didn't think there were any other Japanese Americans.

A small, wiry man with a thin mustache, graying hair and faded tattoos on his arms, Kaname said he only had himself to blame. "I had good jobs and good opportunities . . . but I've been taking dope—heroin and different kinds of dope—since I was 20. That was my downfall."

Japanese-American poverty is "unseen," and largely unreported, activists say, because that group was dispersed around the country after World War II.

THE EFFECT OF THE MYTHOLOGY

Some Asian-American scholars and activists say excessive focus on Asian-American success by the U.S. majority—and inattention to Asian-American failure—is intentional.

"There is a need for the myth," said Ronald Takaki, professor of ethnic studies at the University of California at Berkeley. "Here is a society that is very nervous about the black underclass and gloomy about the economy."

"These are tough economic times," he said, so "you need a model minority to reassure people, they need to be told the American dream still works . . . look at these immigrants, they can still do it."

The emphasis on success extends to education. While there is no doubt a great number of Asian Americans do very well in school, activists say their situation is also wrongly mythologized.

"Many of the Asian-Pacific American whiz kids' seen at elite schools are the progeny of educated elites from Korea or other Asian countries," Nash said. "There are many working-class and poverty-level Asian-Pacific American youngsters doing as poorly as their non-Asian peer in inner city schools due to lack of books, teachers and so forth. This fact does not get trumpeted in the media because it is easier to blame the African-American and Hispanic victims of our

failing urban schools . . . then to address the real learning needs of all youngsters, including Asian-Pacific American."

Chun and others said the success model is at times insulting and condescending, especially when an Asian-American small grocery store owner is hailed as a great success where a similarly well-educated white would be thought of as a failure. A substantial number of highly educated Asian immigrants have gone backward in status and even living conditions in this country, Chun said.

A recent study of Korean grocers in New York found 78 percent had graduated from college in Korea, and that most had started their businesses mainly with personnel savings. An earlier survey here had similar results.

Won Se Kim and his wife, Sook Hee Kim, were hardly illiterate peasants fleeing poverty or refugees from political oppression when they came here from Korea. The Kims said they came because they thought the United States offered better business opportunities for them and better educational opportunities for their children.

The Kims were an upper-middle-class family in Seoul when they decided to leave in early 1987. Both had master's degrees, his in mathematics and her in biology. Won Se Kim was vice principal of the best high school in Korea, one attended by the children of the elite. Sook Hee Kim also taught there.

But they felt opportunities would be better for their three children in the United States than in the crowded Korean peninsula. They sold their home and cashed in their pensions, raising \$120,000 to invest in this country. Neither spoke much English—they don't even now—but running a dry cleaning establishment doesn't require a broad vocabulary. The family, working 14 hours a day, six days a week without vacations for five years, has been able to earn about \$50,000 a year, they said.

That was more than they were earning in Korea, "but we're working much harder here," said Sook Hee Kim, and their house in suburban Los Angeles is scarcely different from the one they sold in Korea."

Still, despite the looting of their cleaners during the recent riot, they say they do not regret their decision to leave. And they believe their children's educational opportunities have improved. One daughter, 27, is a pharmacist, another is graduating from the University of Southern California and a son is studying engineering at California Polytechnic.

"My mom says there's nothing she can do about it, she has no choice."

J.H. Chang, a pharmacist who emigrated from Korea in 1971, believes some of the problems he is having with his 17-year-old daughter, a chronic runaway, may be part of the price immigrants pay to succeed. Chang and his wife both worked long hours—he at a drug store, she at a laundry—and could not afford child care for their daughter when she was just starting elementary school across the street from their home. The kindergarten spent hours alone waiting for her parents to come home. "I know that's against the law but we had to do it," Chang said. "Maybe that time alone triggered something in her."

The troubles started during junior high school, he said, and have continued since. She was arrested not long ago for shoplifting a coat. She was kicked out of a Catholic high school. Every time she has run away, Chang has tracked her down.

Chang, who says he is still groping for a way to handle his daughter's behavior, be-

lieves he may have pushed her too hard to excel.

"She doesn't understand that she's Korean, she thinks she's American. I tell her 'Look in the mirror. Your eyes are not blue, your hair is not blonde.' She's a little Oriental lady, that is the handicap. I tell her you have to work harder than anyone else to overcome the handicap." Chang said. His daughter sees well-to-do whites and "thinks her life is going to be just like that. It's not. . . . There are many qualified Koreans who have gone to the finest schools there and here who can't find a job," he said.

The stress placed on Asian-American students to live up to society's expectations is cited by activists as a contributing factor to an increase in suicides among Asian-American youth.

Elizabeth Gong-Guy, a clinical psychologist at the University of California at Los Angeles, said Asian-American students increasingly have "enormous self-esteem problems" because they have bought "the model minority myth. They feel defective—it really is a problem. They've bought it, their parents bought it." As a result, she sees distressed Asian-American students seeking counseling help "because their grade averages are only 3.2 instead of 3.9."

Other kids want to do well to get jobs," Gong-Guy said, but some Asian-American students "feel they are the standard-bearer for their group, they feel they are serving as a model for their group or their community or their culture. It's really remarkable how it is personalized and turned into a pathology." Gong-Guy said she has not seen any "lessening of the pressure for success" from first- to second-generation immigrants. "The pressure is enormous."

PORTRAIT OF ASIAN-AMERICANS

(Income, poverty and language)

	Median family income as fraction of U.S. overall median	Poverty rate	Percentage who do not speak English well
Indochinese Asians:			
Laotian .....	.26	67.2	69
Hmong .....	.26	65.5	63
Cambodian .....	.45	46.9	59
Vietnamese .....	.65	33.5	38
Thai .....	.97	13.4	12
Other Asians:			
Korean	1.03	12.5	24
Indonesian	1.06	15.2	6
Pakistani	1.08	10.5	10
Chinese	1.13	10.5	23
Filipino	1.19	6.2	6
Asian Indian	1.25	10.6	5
Japanese	1.37	4.2	9
All Asian Americans	1.19	10.3	15
All Americans	1.00	9.6	4.4

Note.—Data are from 1980.

Source: U.S. Census Bureau, Population Reference Bureau.

THE KAHLA LANSING CHILD PROTECTION ACT

• Mr. DIXON. Mr. President, I have spoken often throughout my career on the need to protect our Nation's children from crime, abuse and neglect. I have introduced and/or cosponsored numerous bills on the subject. I am proud of my efforts to protect our children from the act of international parental child abduction, and have successfully fought to make it a higher priority of the State Department.

I am particularly pleased with legislation I introduced in November 1991

entitled, "The Kahla Lansing Child Protection Act," otherwise referred to as S. 2065. Senators CONRAD, D'AMATO, SEYMOUR, and MCCAIN have cosponsored this legislation, which is intended to provide tougher penalties for repeat child molesters through an authorization of Federal criminal jurisdiction over child molestation committed by an individual with a prior conviction for the same offense.

Kahla Lansing was a lovely 6-year-old girl from Spring Valley, IL, who one bright September day, was coaxed into the car of a man who had driven into town looking to kidnap a child. Kahla was driven to a granary in Iowa, where she was sexually assaulted and strangled.

Her brutal death shocked the good people of Spring Valley and surrounding communities. Theirs is a typical small town, where one's children have always been able to walk to the park, or run to the store, or roller skate in the street safely. Her murder shattered the idea such crimes cannot happen in small town America. Worse, Mr. President, her murder shattered a family and community who are still struggling to come to terms with the circumstances of her death.

The accused in this case had a record of convictions for sexual assault. He was convicted in Texas some years back on two counts of sexual assault. At that time he was sentenced to 10 years in prison on each count, to be served concurrently. He actually spent less than 3 months in jail.

It was upon his release from a Texas jail that he proceeded to drive his way north, stopping in Galesburg, IL, where he is suspected of having molested a child, and Spring Valley, where he brutally ended Kahla Lansing's life.

Had he spent the full term of his sentence in jail, Kahla Lansing would be alive. He did not spend his full term in jail. He did not even spend half of his sentence behind bars. He spent less than 5 percent of his sentence in jail, Mr. President.

Is that just?

I hope to enact the Kahla Lansing Child Protection Act prior to the end of this session. Her death must not be in vain. Our children must be given all the protections of the law appropriate. We owe them, and Kahla, no less.

I ask that an article from the June 21, 1992, Chicago Tribune be inserted at this point in the RECORD.

The article follows:

TOWN STILL SHAKEN BY GIRL'S KILLING—FIRST GRADER'S DEATH CARVES A LASTING IMPRESSION IN ALL

(By Matt Murray)

SPRING VALLEY, IL.—Memories of 6-year-old Kahla Lansing surfaced unexpectedly throughout the past year at Lincoln School.

"Every now and then, out of the clear blue, a student would raise his or her hand and say, 'I want to talk about Kahla,'" said James Narczewski, the school's principal and mayor of this quiet northwestern Illinois

town of 5,200. "So it was up to the teacher to step back and talk about it. Not to cut them off. But she'd set a time limit, like, "We'll talk about it for five minutes and then we'll get back to math."

"The questions were along the line of, "Why did God let this happen? Why did it happen to Kahla? When is she coming back?"

It was one of many signs that the kidnapping and murder last fall of Kahla, a blond 1st grader at Lincoln School, remained fresh in the minds of residents even as the months passed.

"This case will never be forgotten," said Marc Bernabei, the Bureau County state's attorney and a Spring Valley resident. "We will never, ever forget what happened in this case. All of us feel like we've lost one of our own children."

At the time of her death, Kahla was known for her love of Barbie dolls and cats, and her deep feelings for her father, Robert, who had been killed in a car accident two years earlier.

She was kidnapped from the street near her home on Sept. 28, after roller-skating with friends. Her disappearance sparked a massive investigation and search, involving dozens of police officers from several agencies and hundreds of volunteers.

Nervous parents, accustomed to thinking their small town was safe, began driving their kids to and from school and keeping them inside the house the rest of the time. Children complained of nightmares and showed signs of depression.

After two weeks, the investigation led to the arrest of a drifter, Jeffrey Rissley, of Benton Harbor, Mich. who told police he had kidnapped Kahla at random while cruising through the town, 100 miles southwest of Chicago, on U.S. Highway 6. He told police he took her to an abandoned granary in eastern Iowa, where her body was found two weeks later.

Apparently, investigators said, Rissley lured Kahla into his truck by offering a soft drink, then drove with her for about an hour before leaving town. Rissley told police the girl asked him to be her daddy.

An autopsy showed Kahla had been sexually assaulted and strangled with the cord of an electric blanket.

Residents were shocked at the brutality of the crime. Some said it was better to know what had happened to Kahla than to always wonder about her disappearance.

But as the months have passed, residents have learned that knowledge of Kahla's fate, Rissley's arrest and the subsequent funeral have not closed the book on the case.

"It'll never be closed," said Police Chief Doug Bernabei, who is the state's attorney's brother and the chief investigator in the case. "Kahla will always have an impact on this town forever and forever and forever."

As resident Candye Wolsfeld, 36, put it: "Our children have been permanently affected. When they grow up and someone asks them what's the most significant thing that happened in their youth, this is what they will talk about."

Concerned for her children, Wolsfeld, a close friend of Kahla's mother, Susan Ballerin, established a neighborhood watch program and brought the McGruff crime watch program to town. Ballerin has helped in the programs, but declined to be interviewed for this story.

In the neighborhood watch program, residents on foot or in car patrols keep watch over neighbors' homes during vacations. In the McGruff program, residents are screened, and if they check out, their homes are of-

fered as "safe houses," where kids can come if they need a safe place. So far, there are 55 "safe houses."

In the last few months, several memorials have been set up to honor Kahla. A room for children who are victims or witnesses to crimes has been opened at the Bureau County Courthouse and dubbed "Kahla's Room." A Kahla Lansing Memorial Award will be awarded every fall to a resident who has worked to protect the children of Spring Valley and Bureau County. The recipient's name will be added to a plaque in City Hall.

In April, the Lincoln School took a \$5,000 donation in Kahla's name from the local electric company and bought a gigantic green-and-black jungle gym, featuring a chain ladder, two slides and monkey bars.

"Kahla would like this," Narczewski said. "It's kind of a nice way to remember her."

The town's feelings of vulnerability intensified in February when Lee Adams, a man who had lived in town for several years, allegedly stabbed to death his 9-month-old son, Justin.

Adams since has been committed to a mental health center, where he will stay until he is declared fit to stand trial.

"It's been an incredible year," Marc Bernabei said. "This is very, very unusual. Murders are very, very rare around here. Or at least they used to be."

Since his arrest for Kahla's murder, Rissley has been in the Bureau County Jail in nearby Princeton. He had been awaiting trial on charges of first-degree murder and aggravated kidnapping.

Police say Rissley, 29 has been passive and well-behaved. Most of the time, he has been kept in isolation. He keeps a Bible, by his bed, according to Bureau County Sheriff's Chief Deputy John Thompson.

A few weeks ago, Rissley tried to hang himself, but he was cut down by sheriff's deputies, Thompson said. Police also discovered that he apparently had dug out several of the blocks in his cell wall, in an effort to escape, Thompson said.

Many in town are still angry that Rissley had claimed, in pleading innocent, that Kahla had been the victim of a cult killing.

On June 11, 10 days before his trial was to start, the case took a surprising turn. Rissley appeared at a hastily arranged hearing, where he reversed his plea, admitting to the crime. A sentencing hearing is scheduled on Aug. 17, and prosecutor Bernabei has said he intends to pursue the death penalty.

"At least we've got the answers," said police chief Doug Bernabei. "His guilty plea starts us toward the end of this trauma for the community. It's the first of the major steps."

The most tangible reminder of the crime lies across the Illinois River, a few miles from Spring Valley in a corner of the Granville Cemetery.

Some grass has started to grow at the spot where Kahla Lansing is buried, but much dirt remains exposed, and the outline of the grave remains clear. A red and blue pinwheel sticks out of the ground, twirling in the breeze. Cloth pink roses and green clover are placed at the head of the grave.

A Barbie doll sits in front of the large, gray, granite tombstone. A smaller Barbie reclines on an edge of the stone, next to a ceramic kitten. At the left, a wooden cross is placed in the ground; at the right, a green wreath adorned with several kitten stickers that are starting to peel off.

Beloved Kahla Jean Lansing, the tombstone reads, Then:
Gentle and pure.

Innocent and kind.

Cherished and loved.

A princess.

An architect.

A skater.

A star.

May 17, 1985-Sept. 29, 1991.

Kahla Lansing is buried next to her father.●

SALUTE TO LEE ZENI

● Mr. SARBANES. Mr. President, on June 30, Mr. Lee Zeni, an outstanding public servant will retire from the Interstate Commission on the Potomac River Basin [ICPRB] where he has served our Nation and State with distinction as executive director for 5 years. I congratulate Lee on his retirement and thank him for his many years of distinguished public service.

The ICPRB was established by Congress in 1940 as a factfinding and coordinating agency dedicated to eliminating pollution in the Potomac River. Its success has involved coordination with literally dozens of State and Federal agencies as well as the public. Mr. Zeni has made extraordinary progress in bringing these groups together and coordinating their efforts to clean the Potomac's waters. During his tenure the Commission has taken on new challenges including the regional Chesapeake Bay cleanup effort, one of the ICPRB's most urgent and important programs.

Mr. Zeni also helped initiate another cleanup effort—that of the Anacostia River. As executive director, Mr. Zeni had to educate the public, encourage citizen participation, and improve the habitat of the watershed's living resources. This was a critical part of the multiagency effort to clean up the other important river running through our Nation's Capital.

One of Mr. Zeni's most visionary projects has been the restoration of the north branch of the Potomac River to a world class trout fishery. This project will provide economic development through restoration. Mr. Zeni believes that if water quality is restored on this wild and scenic stretch of the Potomac River, trout can flourish; and a vigorous trout fishery will draw fishermen from across the Nation to the north branch to hook trophy-size fish amid beautiful mountain scenery.

Mr. Zeni's achievements as Executive Director of the Interstate Commission of the Potomac River Basin have earned him recognition and respect in the District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia, and the Federal Government. It is my firm belief that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens. Lee's distinguished career as Executive Director of the Interstate Commission on the Potomac River Basin meets and

exceeds the best traditions of this service.

Mr. President, I commend Lee Zeni, whose career could serve as an example to thousands of young people interested in serving their Government and passing on to future generations a cleaner and better environment. ●

THE 1992 DUCK STAMP CONTEST

● Mr. LAUTENBERG. Mr. President, many people who aren't familiar with New Jersey would be surprised to learn that our State boasts many extremely active and ongoing wildlife management and preservation programs. Hundreds of thousands of acres have been set aside by Government agencies and nonprofit groups.

Because we are a small and densely populated State, these special pristine areas and the wildlife that inhabit them are precious to New Jerseyans. In fact, one of the few contribution check-offs on our tax form is for a special fund for wildlife protection.

That is why we are so proud that an artist from our State, Mr. Joe Hautman, of Jackson, is the winner of the U.S. Fish and Wildlife Service 1992 Duck Stamp Contest. Since 1934, the Federal Duck Stamp Program has generated over \$400 million to acquire 4 million wetland acres. In addition to being a collectors item, duck stamps have gained national attention as all waterfowl hunters are required to purchase these stamps.

This year's duck stamp features a spectacled eider. This is a large Arctic duck indigenous only to Alaska. Mr. Hautman's drawing shows the spectacled eider soaring gracefully just above the ocean while other waterfowl glide over the waves below. The spectacular mountains of Alaska serve as a backdrop for the painting. Each year, the program selects different species of ducks that are eligible for the contest. By 2002, all 42 species of North American waterfowl will be represented on these stamps.

Mr. President, I would like to congratulate Mr. Hautman for his participation in this innovative conservation program. There were over 585 entries in this year's Duck Stamp Contest and the selection of his drawing is an honor. ●

FORGOING OPPORTUNITIES IN VIETNAM

● Mr. SIMON. Mr. President, recently I saw a letter to President Bush dated May 7, 1992, saying that we are following the wrong course in Vietnam. Our trade embargo has long outlived whatever utility it may have had, and we should stop wasting time and end the embargo now.

While the administration has laid out a roadmap for normalization of ties with Vietnam, I remain unpersuaded

that lifting the embargo now will have an adverse impact. It is clear that American businesses are unduly suffering because our economic embargo against Vietnam is still in place, 18 years after the Paris peace accords were signed.

Lifting the embargo does not mean that we will immediately restore relations with Vietnam. That Government must still satisfy all of our inquiries into missing United States servicemen from the Vietnam conflict and respect international standards of basic human rights. Although there has been some movement on MIA's, Vietnam must continue its progress on both fronts. By lifting our embargo we will encourage additional steps on the part of Vietnam. And we will not be giving up any leverage we now have in voting for loans in the multilateral development banks or through our annual most-favored-nation approval process. It is a mystery to me how the Bush administration can promote trade with the People's Republic of China and insist on MFN for Beijing in the name of moderating that Government's brutal domestic and international actions, while at the same time deny that the same policy toward Vietnam would have any positive impact.

American companies like Caterpillar, in my own State, are eager to enter the Vietnamese market, but they lose out to companies based outside the United States with each day that our trade embargo is in place.

At this point, I would like to have a letter inserted into the CONGRESSIONAL RECORD to President Bush from Caterpillar and nine other American companies asking for reduced restrictions on commercial activity in Vietnam.

The letter follows:

MAY 7, 1992.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: As corporate members of the United States-Vietnam Trade Council, we would like to congratulate you on the very successful trip to Vietnam by Assistant Secretary of State for East Asian and Pacific Affairs, Dr. Richard Solomon, and his delegation last month. We understand great strides were made towards resolving the humanitarian issues lingering from the Vietnam War, the last major obstacle to normalizing relations with Vietnam. We applaud the steps towards normalization the United States has taken in response.

We hope you will now begin to address the concerns of the U.S. business community and reduce the restrictions on commercial activity in Vietnam. We see no inherent conflict between these two American interests, as we would hope that an increase in the number of Americans with independent government and private contacts in Vietnam could augment official efforts on behalf of the U.S. military personnel still missing in action.

The United States economic sanctions with respect to Vietnam have become unilateral, with our allies and trade partners investing heavily and trading vigorously. Accordingly, the effect of the American embargo is not to deny Vietnam access to western

technology and financing, but rather to penalize U.S. companies to the benefit of our foreign competitors. The United States is rapidly losing ground and is forfeiting to foreign competition a market where we could have a competitive edge.

In view of this, we would like to encourage you to accelerate the lifting of economic restrictions on business transactions with Vietnam and allow American companies and individuals to freely enter this growing market.

We would like to meet with you or members of your staff to discuss the matter further.

Sincerely,

Caterpillar Inc., Boeing Commercial Airplanes, American International Group, Hunt Oil Company, Amoco Production Company, Windmere Corporation, Chevron Overseas Petroleum, Inc., Phillips Petroleum Company, Coudert Brothers, United Technologies Corporation. ●

HONORING GRAY'S CHILD DEVELOPMENT CENTERS

● Mr. KASTEN. Mr. President, I rise today to honor the outstanding efforts of the Gray family of Milwaukee and their successful business, Gray's Child Development Center, Inc.

Mrs. Bessie Gray, the company president, started her business almost 20 years ago in the living room of her own home. With a full-time job as housewife and mother of nine, Mrs. Gray opened her home to assist other families and to help make ends meet for her own family.

Today, nearly two decades later, the 3 Gray's Child Development Centers in Milwaukee provide care for about 300 children and employ almost 100 people.

The Gray's have recently consolidated many of their centers at the former Sisters of Sorrowful Mother Convent in northeast Milwaukee, where Mrs. Gray now employs seven of her children—Wanda, Felicia, Tammy, Claudia, LaSonia, Mark, and Zachary—along with several in-laws and cousins, and her husband, Percy, who supervises the grounds. This is truly a family business. Together they provide high-quality child care for Milwaukee families who rely on their services.

The Gray's will soon celebrate their first anniversary at their new northeast location and will commemorate the 20th anniversary of their business next January. The road to success was not always smooth and easy for Bessie Gray and her family, but because of their dedication and commitment, Mrs. Bessie Gray and her family grasped the American dream and made a positive difference for Milwaukee.

I ask all my colleagues to join me in saluting the entire Gray family, and all their employees, for the terrific job they are doing in providing a very valuable service to the Milwaukee community. ●

S. 2327, PERTAINING TO THE NATIONAL SCHOOL LUNCH ACT

• Mr. HATFIELD. Mr. President, on March 10, 1992, I introduced S. 2327, a bill designed to suspend implementation of review regulations, known as the Coordinated Review Effort or CRE, proposed by the Department of Agriculture for the National School Lunch Act. While it is generally preferable to allow the regulatory process to run its course, I introduced this legislation because of my belief that the needs of hungry children take precedence over the bureaucratic needs of the Federal Government and my concern that the proposed regulations would expect too much too soon from a program already overburdened by paperwork.

I am pleased to confirm for my colleagues, particularly the 32 Senators who cosponsored S. 2327, that the American School Food Service Association and USDA have reached agreement on the implementation of these regulations. Thus, legislative action by Congress is not necessary at this time.

As I understand the final agreement, the Department intends to publish interim Coordinated Review Effort regulations by September 1, 1992, and implementation is to occur no sooner than January 1, 1993. I look forward to reviewing the published regulations and to monitoring the success of their implementation in 1993. I will ask that a letter from the American School Food Service Association and a draft of the CRE regulation agreement appear in the RECORD at the conclusion of my remarks.

Mr. President, I want to commend USDA officials, particularly those at the Food and Nutrition Services office, and representatives of the American School Food Service Association for their perseverance and willingness to reach an amicable resolution to this issue that is of such basic importance to so many children across this country. I would also like to encourage ASFSA and USDA in their commitment to continue to meet periodically to discuss this issue.

I am not alone in my view that a comprehensive reevaluation of the School Lunch Program is necessary. My friend from Maine, the distinguished majority leader, Senator MITCHELL, accompanied by Senator LEAHY, has introduced legislation calling for the Secretary of Agriculture to conduct a study on the options for instituting income-blind, universal-type school lunch and breakfast programs. While I continue to have reservations about proposals to give the program universal coverage due to fiscal concerns, this type of comprehensive inquiry will be beneficial in uncovering problems that may hinder the School Lunch Program from achieving its primary goal: feeding hungry children.

I ask that the letter to which I earlier referred and a draft of the CRE reg-

ulation agreement be printed in the RECORD.

The material follows:

AMERICAN SCHOOL FOOD SERVICE ASSOCIATION, Alexandria, VA, June 24, 1992.

Hon. MARK O. HATFIELD, U.S. Senate, Washington, DC.

DEAR SENATOR HATFIELD: On behalf of the American School Food Service Association, I would like to express our deep appreciation to you for your support and leadership on the CRE issue. The American School Food Service Association and the Department of Agriculture have agreed to a series of changes in the "final" CRE regulation. A list of the changes is attached.

The Department of Agriculture has announced that it will implement these changes by promulgating interim regulations no later than September 1, 1992. Further, so that school foodservice administrators will have time to comment on the interim regulations and to fully absorb these changes, the implementation date for the new system will be no earlier than January 1, 1993—or later if the interim regulations are not published by October 1, 1992.

While it is unfortunate that it took H.R. 4338 and S. 2327 to move this issue forward, we feel it best to resolve this matter without legislation if at all possible. The changes agreed to by the Department of Agriculture greatly improve the CRE system, and we have agreed to meet periodically to discuss CRE implementation. We thank USDA for the time and effort they put into this issue. We, therefore, respectfully suggest that the Congress not move forward with the CRE legislation now that the regulatory process is back on track.

Thank you again for your support and for your responsiveness to our concerns.

With best regards,
Sincerely,

SUE GREIG, R.D.,
President.

CHILD NUTRITION DIVISION

Issues	Action
Coordinated review effort (CRE) issues:	
Abbreviated Review of Applications: Amend the regulations to allow State agencies to evaluate the certification process by reviewing a sample of applications in accordance with procedures to be established by FNS.	Regulatory
Withholding of Payments: Limit withholding of payments to critical areas which exceed the review threshold(s) on a follow-up review. Withholding for general areas and for critical areas which fall below the threshold would be at the discretion of the State agency.	Do.
Fiscal Action: On a first review, fiscal action for errors of certification, issuing benefits and updating eligibility status would be for the review period only; provided corrective action occurs.	Do.
Increased Disregard: Allow State agencies to disregard any overpayment resulting from reviews or audits if the total, in any fiscal year, does not exceed \$500 in a small school food authority and \$750 in a large school food authority.	Do.
Administrative Appeal: Develop an administrative appeal procedure similar to the procedure established for the Child and Adult Care Food Program.	Do.
Alternative Review Cycle: Re-evaluate the duration of the review cycle by July, 1994 based on operational experience gained in the first and second year of the initial 4-year cycle.	Do.
School Selection Criteria: Limit the number of residential child care institutions to be reviewed to the minimum number specified on Table A.	Do.
Simplified Review of Benefit Issuance: Develop a review procedure which allows State agencies to test benefit issuance by reviewing a sample of benefit issuance actions when few or no errors are found.	Policy
Current Applications: Allow State agencies the option of reviewing free and reduced price applications effective for the review period (as required in Coordinated Review) or of reviewing the applications effective for the day of review.	Regulatory
Underclaims/Overclaims: Allow monthly underclaims to offset monthly overclaims to the extent that overclaims are reduced.	Policy

CHILD NUTRITION DIVISION—Continued

Issues	Action
Simplified Review Form: Limit the complexity of review through a simplified review form.	Do.
Additional CRE issues:	
January 1 Implementation: Remove the July 1, 1992 effective date for the CRE. Establish a mandatory effective date of January 1, 1993 or a date 90 days after publication of the interim regulation, whichever is later.	Regulatory
Withholding Payment: The State agency may, at its discretion, reduce the amount withheld from a school food authority which fails to take corrective action by as much as 50% when it is determined to be in the best interest of the program. To withhold less than 50 percent would require the concurrence of FNS.	Do.
Review Cycle: Clarify that a State agency may establish a review schedule that accommodates the State agency's special circumstances; provided that all school food authorities are reviewed within the 4 year review cycle. Clarify that State agencies may count any CRE reviews conducted prior to the mandatory effective date towards meeting the requirements of the first review cycle.	Preamble
Fiscal action: Clarify that State agencies are required to base fiscal action on accurate local data, to the extent it is available. Use of projections based on State or national percentage should be the last resort when calculating fiscal action.	Do.

Source: Food and Nutrition Service, USDA.

SYMBIOTECH, INC.

• Mr. DODD. Mr. President, recently I had the pleasure of paying a visit to SymBiotech, Inc., a small high-technology research firm in Wallingford, CT. SymBiotech was started just 5 years ago, but it has already become a small business success story.

From its humble beginnings as a two-man basement operation, SymBiotech has grown to an eight-person research firm with experience in a variety of fields, such as biochemistry, medical technology, chemical engineering and environmental technologies. Under the able leadership of cofounders Robert Coughlin and Edward M. Davis, Symbiotech has managed to secure nearly a dozen grants under the Small Business Innovation Research Program, for everything from biodegradation of heavy hydrocarbons to miniaturized liquid extraction for drug assays.

Mr. President, SymBiotech is a perfect example of the importance of supporting small manufacturers and research firms around the country. In fact, companies of 20 employees or more are responsible for a large majority of the economy's growth—and their contribution to the Nation's technology base cannot be measured in dollars.

Many of these companies, like SymBiotech, are supported by the Small Business Innovation Research Program, or SBIR. Under the SBIR program, each Federal agency is required to devote 1.25 percent of its budget for grants to small businesses that pursue innovative research. During the last fiscal year, SBIR provided almost \$500 million in grants to small firms, including \$18 million in grants to companies in Connecticut.

Since it acts as a set-aside within funds that have already been budgeted, the SBIR Program has virtually no impact on the budget. In my view, SymBiotech is a perfect example of

why we should support an increase in the SBIR set-aside—and why we must rededicate ourselves during these difficult economic times to the assistance of small businesses everywhere.

Mr. President, the coming decline in our defense budget poses a great threat to workers and communities in many regions of our country. If we are to retain our high-technology industrial base and our skilled work force during this transitional period, it is programs like the Small Business Innovation Research Program that must play a role. And it is companies like Symbiotech, Inc., which will lead the way.●

ORDER FOR SEQUENTIAL REFERRAL

Mr. CONRAD. Mr. President, I ask unanimous consent that Calendar No. 387, S. 1581, the Technology Transfer Improvements Act of 1991, be sequentially referred to the Committee on the Judiciary until July 31, 1992, further that if the Judiciary Committee has not reported the measure by that time, it then be automatically discharged and returned to the calendar.

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

MEASURE PLACED ON THE CALENDAR—HOUSE CONCURRENT RESOLUTION 192

Mr. CONRAD. Mr. President, I ask unanimous consent that House Concurrent Resolution 192, a concurrent resolution on the organization of Congress be placed on the calendar.

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

REREFERRAL OF A BILL—S. 2834

Mr. CONRAD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 2834, relating to the John J. Williams Post Office, and that the bill be rereferred to the Government Affairs Committee.

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

ORDERS FOR TOMORROW

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Thursday, June 25; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be re-

served for their use later in the day; that there be a period for morning business not to extend beyond 11 a.m., with Senators permitted to speak therein for up to 5 minutes each; that immediately following the Chair's announcement, the following Senators be recognized in the order listed and for the time limits specified: Senator REID for up to 15 minutes; Senator BIDEN for up to 1¼ hours; Senators ADAMS and LEAHY for up to 10 minutes each; Senator PRYOR for up to 20 minutes; Senator RUDMAN for up to 5 minutes; and Senator SIMPSON, or his designee, for up to 10 minutes; that at 11 a.m., the Senate resume the pending business; and that Senator NICKLES than be recognized for the time periods specified under the previous order.

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

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. CONRAD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 8:13 p.m., recessed until Thursday, June 25, 1992, at 8:30 a.m.