SENATE—*Monday, September 14, 1992*

(Legislative day of Tuesday, September 8, 1992)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer to the Almighty Supreme Judge of the world will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson. Dr. Halverson, please.

PRAYER

Let us pray:

* * * *For there is no power but of God: the powers that be are ordained of God.*—Romans 13:1.

Eternal God, almighty in power, full of grace and truth, the Bible is explicit that the endowment of power is at the discretion of the One who is the Lord of history, the Ruler of the nations. It is He who ordains the powerful which, if words mean anything, suggests that the final disposition of the election rests with the sovereign God. Not that we should sit on our hands and do nothing. We should do everything in our power that is right and good to give the people their opportunity for a righteous decision at the polls, aware that the outcome is in sovereign hands. Surely, gracious Father, we ought never to forget that our destiny rests with Thee.

In the light of this reality, mighty Lord, help each candidate to consider well words, actions and attitudes, that they may measure up to the judgment of a righteous God. Let issues, not image, be the rationale for campaigning and the criterion for decision.

In the name of Him who is the Lord of Life. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Kentucky [Mr. FORD].

RESERVATION OF LEADER TIME

Mr. FORD. I ask unanimous consent that the time for the two leaders be reserved for some time during the day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. FORD. It is my understanding that the schedule now is that the Senate will proceed as if in morning business until the hour of 1:30, and then it will take up the China most-favored-nation legislation, H.R. 5318.

MORNING BUSINESS

The PRESIDENT pro tempore. The Senator from Wyoming, Mr. Simpson, is recognized under the order previously entered for 5 minutes.

Mr. SIMPSON. Mr. President, I thank the Chair. I will reserve my time for a later period during the business day. I thank the Chair.

The PRESIDENT pro tempore. Without objection, it is so ordered.

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

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming.

THE PRESIDENT'S ECONOMIC PLAN

Mr. SIMPSON. I thank the Chair.

Mr. President, in morning business, let me say a few words of commendation for the specific economic plan put forward by the President last Thursday in his agenda for American renewal.

I listened closely to the President; I know many millions of Americans did. And I have taken the opportunity to read through the document he discussed. I was singularly impressed by both.

Much of what he has put forward is not new. Restating the President's plans and commitment to reforming the American educational system is certainly not new. He proposed that when he started his first term. Negotiating free trade agreements to benefit our economy is certainly not new. It has been presented before on many occasions, as he stitched together the Canadian-United States Trade Agreement, spelling out what the President has long advocated in budget and tax legislation.

Regrettably, those proposals have been with us for some time, for the basic and simple reason that we, as a Congress, have failed to pass them; and, in some cases, have failed to even consider them. Even noncontroversial parts of the President's tax agenda that have wide bipartisan support have died here in the Congress because they were attached to unacceptable tax hikes totaling more than $70 billion.

I especially noted what the President said about our economic challenges. He said they "have no single cause and no single cure." And no single idea that can be expressed in a sound bite is going to do much to solve them, either.

I was pleased to see that the President has put his ideas forward in a well-organized package. I was impressed by his willingness to see things as they are, and not as they might sell the best. He talked at first about reforming the financial system. That is not exactly a sound-bite issue. But it surely is the economic reality that we are not going to be able to compete in the 21st century so long as our financial system is set to serve the 1930's when it was set up.

What is especially impressive about his document is the way in which it shows the President's clear perception of how all of our national policy challenges interrelate. He first identified those challenges: How America, now that the cold war has been won, must win the international economic competition if our descendants are to thrive and prosper; and then he proposes very clearly things that absolutely must be done if we are to win that economic competition.

The specific proposals put forward by the President regarding the Federal budget and taxes are vital and necessary, but are only part of what we have to do. We are not going to form the capital necessary to invest in our future productivity if we continue to soak up hundreds of billions of dollars every year in the form of the national deficit. So certainly, the line-item veto is scorned by some and ridiculed by others; capped growth of mandatory spending, said by some to be impossible; and the balanced budget amendment, often scoffed at and ridiculed again.

But those are attempts. And without attempts, we will have nothing to stem the flow of what will be an ever-increasing deficit, and will surely be giving up on our children and grandchildren in the year 2030, at which time the Social Security System will be in a dramatic drawdown. And there is not anyone that has yet challenged those figures.

Under any scenario, the year 2030 is the doomsday scenario, unless we do something with the cost-of-living allowance for people who earn over $50,000 a year or $75,000 a year in retirement. And we cannot even touch that unless we do something with people who have over $20,000, $30,000, $40,000, or $50,000 in retirement income, and are only paying 25 percent of their pre-

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

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miums on part B of Medicare, when they should be paying 75 percent if they have the wherewithal to do it.

We do not touch that one, either. No one is going to touch that one, I can assure all of them.

So there we are. We know what we have to do. We have heard so many tell us that. So we talk about these things. Balanced budget; I happen to think that is very vital. Investment tax incentives; that should have been passed by the Congress long ago.

I can surely understand the arguments of those on the other side. The occupant of the chair speaks with eloquence about the balanced budget amendment; with some remarkable vigor and with remarkable potency, also.

At least the President has placed those things in his plan.

The President's plan also recognizes that a properly educated and trained work force is a necessary condition for meeting our future economic challenges. The President, several months ago, sent us his program to allow the principles of competition and decentralized innovation to improve the quality of our schools. The Secretary of Education, Lamar Alexander, is a superb gentleman, a very superb administrator, and an awesome innovator of what has to be done in education. Whatever it will be, we are not doing it enough.

Again, we are already well familiar with this story. But it is presented here very clearly in the context of the President's overall vision for meeting this country's economic challenges—a vision which includes:

Repairing our Federal budget and tax situation;

Reforming our schools;

Negotiating the best possible position for our country in international trade;

Freeing small business from regulatory and litigation burdens;

Controlling the growth of an unaccountable Federal bureaucracy; and

Reforming our health care system, among other specific proposals.

No matter who aspires to sit in the Oval Office next January, or to serve here in Congress, we would all do well to take a good and comprehensive look at the President's presentation of the American agenda. I commend him for uniting his many important proposals in a clear and understandable document that shows how all of them fit into a bold plan for America's future.

I thank the Chair.

Mr. FORD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Kentucky [Mr. FORD].

Mr. FORD. Mr. President, it is also interesting and enlightening to listen to my good friend from Wyoming. He is my friend. We disagree on some items, but we are not disagreeable. He lists all of these things the President has put together in the package, and he says it is nothing new.

We have had 12 years of decline. And I think if you look at every economic category in the last 3 years, 3½ years, they are all down; there is no positive side to any of them.

We talk about a balanced budget. We have not seen a budget sent to the Congress in the last 12 years that was balanced.

This year, the House passed their 12 or 13 categories of appropriations, and they are down almost $13 billion, less than the President asked for. And we are along that same route to reducing the request of the President by billions of dollars.

We had a little amendment here not too many days ago on star wars. The President wanted $4.8 billion, I think, and the committee put out about $3.8 billion. There was an amendment on the floor to reduce it another $1 billion; and a motion to table, I believe, failed 43 to 49. Then we had the filibuster, because they do not want the defense authorization appropriations bill to go forward since we cut $1 billion out of star wars.

Somehow or another all of these things that we get do not add up. We talk about the great educational President, and the great educational proposal. We will have to file a cloture motion in order to bring the educational bill up.

We talk about gridlock. Every time we get ready to bring up a bill, just to bring it up to consider it, there is a filibuster and we have to have a cloture motion filed on it. And then it probably comes out 87 to 7 in favor of cloture. But that is the gridlock, and that is what slows us down.

We hear this: I will never, ever tax again. And then, the next day, the White House is trying to repair the damage. But then you read articles where the administration sends their people to Japan to try to get back in good graces with them, and they brag about the tax increase. That is what they brag about to Japan: We bit the bullet; we increased taxes to try to help our economic situation.

But when they come back here, they say it was a mistake; they were put in a corner, and could not get anything else.

So the economy of this country is so important. Our ship of state, as one said, as far as the economy is concerned, is headed for the rocks. This administration is steady as she goes. Others think we ought to change course.

Mr. President, we hear all these grand old sayings which are warmed over. And our friends on the other side admit that, that it has been warmed over. There is nothing new. The economic stimulus package that we sent to the President, he vetoed, and six of the seven requests were made by the President. But we felt the responsibility of not increasing the deficit, so what did the Congress do? They added a little tax onto the millionaires—to the millionaires. And so that was vetoed, because we put a little more tax on the rich in order to pay for all these things; we wanted to help those that made less than $50,000, to pay for reduction in passive losses and capital gains and research and development; let the farmer continue to charge off a portion of his health insurance, all of these things that would help stimulate the economy.

And so, Mr. President, I feel it is important that we look at what is being rewrapped here. It is a present we have had several times. We have turned that down. I think the American people have turned it down, and I believe that they will continue to do that until we find something that will reach the imagination, reach the confidence that we are going to have change, and that change is vital to the future of our country.

Mr. President, I was not able to travel with some of the delegation last Friday, but I stayed here to be with my Congressman, WILLIAM NATCHER, as we broke ground in dedicating a building in his honor at the National Institutes of Health. And Congressman NATCHER said that he believes very strongly as long as you take care of the health of your people and educate your children, you will remain the strongest country in the world.

I believe that, and what we need to do is to be sure that the health of our country is secure and that the education of our children is positive, and we will remain the strongest country in the world.

I yield the floor.

Mr. SIMPSON. Mr. President, I see no one else seeking the floor for the purposes of morning business, so I ask unanimous consent that I might use the remainder of my 5-minute leadership time at this time.

The PRESIDENT pro tempore. Without objection, it is ordered.

POLITICS

Mr. SIMPSON. Mr. President, I do enjoy the senior Senator from Kentucky. He is a spirited man with great energy and great wit and great, good common sense. He and I have served our parties as assistant majority leader and assistant minority leader now for some many months together, and I have enjoyed that. There are many times and opportunities in the course of turmoil of partisanship in our activities where the two of us sit down and say, how can we best move something forward that seems to be tangled inexorably in some kind of net that no one understands. And we can share with each other what it is, and there is the reality of that. There is always a rea-

son for things in politics, but then there is always a real reason. We try to get to that.

Indeed, what my friend is saying is the people do have it figured out; it does not add up. The President of the United States presents a budget. It is not balanced and never has been. And then the Congress passes a budget which is not balanced, and it never has been. And then we point our fingers at the figures. There are some things that the people will have now about 50 days to sort out. I think they will.

Gridlock is not the province of our party. We were still waiting for a vote on the capital gains tax reduction, which I know is arcane and may be abused to some, but that is what the President campaigned on in 1988. All he wanted was a vote. We never got it here. So every time we come up with who did what to whom here, with all sorts of procedural trickery, remember that one, which we never got to once on a clean vote.

There was a so-called misery index. I do not know who put that together, but we remember what it was. It was under the previous Democratic President. Interest rates were at double digit. They have never been lower than now in the last 20 years.

What an advantage for young people if they are willing and able to get into the housing market. An inflation rate of 3 percent now versus double digit in 1980. Capitalists, if you will, were paying 70 percent on their income tax. Now they are paying 31, hopefully releasing that into the economy. At least that is what capitalism is supposed to be about.

But I remember the debate during the Tax Reform Act, when people on the opposite side of the aisle, especially in the House, said that is it, this is the finest piece of legislation that has ever been done because we finally stuck it to the rich. I remember the statement of Tip O'Neill, I remember the statement of Congressman GEPHARDT, I remember a flow of people stepping forward and saying that is it, we finally have done it. Apparently, we did not get that done. If we did not, somebody on the other side of the aisle was dilatory in that activity.

So now we have the opposing candidate suggesting—not suggesting—explaining that he will have a $150 billion tax increase, which he calls simply investment. The people will have to sort that out. And then, of course, they will have to sort out the real issue, that is that poor people do not hire people. The people that hire people are people who accumulate capital. You take away their capital, and they do not hire people. They are called entrepreneurs, employers.

I cannot tell you how many times I have stood here and heard people say this tax does not fall on the taxpayer. Can you not understand? It only falls on the employer.

Well, you have to have your head examined when you consider that statement as to who do they think an employer is. An employer is a taxpayer.

When you say you are going to just do it to people who earn 200,000 bucks, you better listen carefully, because that includes most of the people who file their income returns in the United States because most are filing under subchapter S. There is hardly any business that does not gross that—sole proprietorships gross, partnerships gross. You are affecting about 67 people of the United States in that little outburst. I have not heard anybody sort that out yet. I am sure we will have that.

In any event, it is a great ritual. Wait until the President gets what he asked for and then you stick something in it which he bitterly is opposed to. And then you ship it to him and wonder why we call it gridlock. Not one thing purely that he has asked for has he ever received. It is always loaded with a poison pill hoping to detonate under his chair at the end of 1600 Pennsylvania Avenue forcing him to veto it, and then we come here and sustain the veto and he gets the finger pointed that he is inept, out to lunch, gone out fishing, or golfing or whatever.

The people have that all figured out, or they will within the next 50 days. We will help to do that.

Thank you very much.

Mr. FORD. I ask unanimous consent that I might have another minute.

The PRESIDENT pro tempore. The Senator may be recognized as in morning business for not to exceed 5 minutes.

Mr. FORD. Mr. President, I will only say that we are trying to be diverted here. We get all this big package, but they do not say how they want us to pay for it. So we have to figure out a way to make it revenue neutral and then we tax the millionaires, and that is the bitter pill that the distinguished Senator from Wyoming does not like, or the administration does not like, and so, therefore, it has to be vetoed.

It is a shame that we do all these things to stimulate the economy, and there is one item that is not liked and that is taxing the rich. So, therefore, the legislation is passed. We get a lot of this subchapter S and all that sort of thing. Not many people out there understand what that means, and we will see how things work out in the next 50 days.

I yield the floor.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,038,419,035,499.18, as of the close of business on Wednesday, September 9.

Anybody even remotely familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the Federal debt run up by Congress.

On a per capita basis, every man, woman, and child in the United States owes $15,722.32—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.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

TRIBUTE TO KEITH KENNEDY, 20 YEARS OF SERVICE TO U.S. SENATE

Mr. COCHRAN. Mr. President, I would like to recognize the contributions of Keith Kennedy as he celebrates 20 years of service to the U.S. Senate.

Keith Kennedy has provided the Appropriations Committee with exemplary leadership as the Republican staff director for many years. He has exhibited professionalism, skill, and poise as he has helped the committee steer to passage its 13 annual appropriations bills, supplementals, and continuing resolutions.

Keith has been very helpful to this Senator in navigating the sometimes treacherous waters of the appropriations process. I commend him for his outstanding service to the Senate and the committee, and I congratulate him on reaching this important milestone in his career.

TRIBUTE TO QUENTIN BURDICK

Mr. FORD. Mr. President, regrettably several longstanding commitments back in the Commonwealth prevented me from attending last Friday's services for our friend and colleague from North Dakota, the late Quentin Burdick. There have been a number of words spoken about Quentin Burdick in the past week, and I can't top the accolades that he has been given. I would like to take a few minutes today to pay tribute to this man who gave so much to the U.S. Senate.

Quentin Burdick's career, I believe, could best be described as a testament to dedication. He didn't succeed in every race he ran. As a matter of fact,

he lost the first six he was in. But he persevered, and he won, and he won again and again. In the process, he made the North Dakota Democratic Party a power to be reckoned with, and he went on to become a true power in the Senate himself.

There was a simple reason for Quentin Burdick's success: he never forgot who he was representing. He looked after the farmers, made sure their voices were heard in Washington. He was dedicated to serving the people of North Dakota, and they were committed to him.

Mr. President, we will all miss Quentin. He was a good man. I know I speak for all when I extend my condolences to his family. I look forward to working with his widow, Jocelyn, in the coming days and welcome her to this body.

UNITED STATES-CHINA ACT

The PRESIDENT pro tempore. Under the order the Senate will now proceed to the consideration of H.R. 5318, an act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, under which there will be 1 hour equally divided and controlled in the usual form for debate on the bill and the committee reported substitute; that when all time is used or yielded back the committee substitute will be adopted; the bill will be read a third time and passed, and the motion to reconsider laid on the table.

The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 5318) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, reported with a committee substitute and without recommendation.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1992".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) On June 4, 1989, thousands of Chinese citizens courageously demonstrated that they were prepared to risk their lives and futures in pursuit of democratic freedom and respect for human rights.

(2) Despite this massive outpouring of desire for self-determination and observance of fundamental principles of human rights, the Government of the People's Republic of China, a member of the United Nations Security Council obligated to respect and uphold the United Nations charter and Universal Declaration of Human Rights, continues to flagrantly violate internationally recognized standards of human rights, including—

(A) torture and cruel, inhuman, or degrading treatment or punishment;

(B) arbitrary arrest, unacknowledged detention without charges and trial, and jailing of persons solely for the nonviolent expression of their political views; and

(C) use of prison labor to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law.

(3) The Government of the People's Republic of China continues to deny Chinese citizens who have supported the prodemocracy movement and others, the right of free emigration despite having given a pledge to the Secretary of State to do so during his visit last year to China.

(4) The Government of the People's Republic of China continues to use army and police forces to intimidate and repress the Tibetan people who nonviolently seek political and religious freedom.

(5) The Government of the People's Republic of China continues to engage in unfair trade practices against the United States by raising tariffs, employing taxes as a surcharge on tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles and other items to the United States through Hong Kong and third countries.

(6) Although the Government of the People's Republic of China has pledged to adhere to the guidelines and parameters of the Missile Technology Control Regime, there are continuing reports of Chinese transfers of missile technology controlled by such regime to the Middle East, Africa, and Asia.

(7) The Government of the People's Republic of China continues to unjustly restrict and imprison religious leaders who do not adhere to the dogma and control of state-sponsored religious organizations.

(8) It is the policy and practice of the Government of the People's Republic of China's Communist Party to control all trade unions and suppress and harass members of the independent labor union movement.

(9) The Government of the People's Republic of China continues to harass and restrict the activities of accredited journalists and restrict broadcasts by the Voice of America.

(b) POLICY.—It is the sense of the Congress that—

(1) with respect to the actions of the People's Republic of China in the areas of human rights, weapons proliferation, and unfair trade practices the President should take such actions as necessary to achieve the purposes of this Act, including but not limited to—

(A) directing the United States Trade Representative to investigate and take necessary and appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the continuing unfair trade practices of the People's Republic of China which are determined to be discriminatory, and which unreasonably restrict United States commerce; and

(B) encouraging members of the Missile Technology Control Regime and other countries as appropriate, to develop a common policy concerning the People's Republic of China's transfer of missile technology to other countries;

(2) the sanctions being applied against the People's Republic of China on the date of the enactment of this Act should be continued and strictly enforced; and

(3) the President should direct the Secretary of Commerce to consult with leaders of American businesses who have significant trade or investments in the People's Republic of China, to encourage them to adopt a code of conduct which—

(A) follows basic internationally recognized human rights principles,

(B) seeks to ensure that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief,

(C) does not knowingly use prison labor,

(D) recognizes workers' rights to organize and bargain collectively, and

(E) discourages mandatory political indoctrination on business sites.

SEC. 3. MINIMUM STANDARDS WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA MUST MEET TO CONTINUE TO RECEIVE NONDISCRIMINATORY MOST-FAVORED-NATION TREATMENT.

Notwithstanding any other provision of law, the President may not recommend the continuation of a waiver for a 12-month period beginning July 3, 1993, under section 402(d) of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such section that the government of that country—

(1) has taken appropriate actions to begin adhering to the provisions of the Universal Declaration of Human Rights in China and Tibet, and is fulfilling the commitment made to the Secretary of State in November 1991 to allow the unrestricted emigration of those citizens who desire to leave China for reasons of political or religious persecution, to join family members abroad, or for other valid reasons;

(2) has provided an acceptable accounting of Chinese citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs and, by the date of the enactment of this Act, has released citizens so detained, accused, or sentenced, to credibly demonstrate a good faith effort to release all those imprisoned as a result of the events which occurred during and after the violent repression in Tiananmen Square on June 3, 1989;

(3) has taken action to prevent export of products to the United States manufactured wholly or in part by convict, forced, or indentured labor and has agreed to allow United States Custom officials to visit places suspected of producing such goods for export; and

(4) has made overall significant progress in—

(A) ceasing religious persecution in the People's Republic of China and Tibet, and releasing leaders and members of religious groups detained, imprisoned, or under house arrest for expressing their religious beliefs;

(B) ceasing unfair trade practices against American businesses, and providing them fair access to Chinese markets, including lowering tariffs, removing nontariff barriers, and increasing the purchase of United States goods and services; and

(C) adhering to the guidelines and parameters of the Missile Technology Control Regime and the controls adopted by the Nuclear Suppliers Group and the Australian Group on Chemical and Biological Arms.

SEC. 4. REPORT BY THE PRESIDENT.

If the President recommends in 1993 that the waiver referred to in section 3 be continued for the People's Republic of China, the President shall state in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, the extent to which the Government of the People's Republic of China has complied with the provisions of section 3, during the period covered by the document.

SEC. 5. NONDISCRIMINATORY TREATMENT FOR PRODUCTS FROM NONSTATE-OWNED ENTERPRISES.

(a) IN GENERAL.—Notwithstanding any other provision of law, upon the occurrence of any event described in subsection (b), nondiscriminatory treatment shall apply to any good that is produced or manufactured by a business, corporation, partnership, qualified joint venture, or other person that is not a state-owned enterprise of the People's Republic of China. Any such

good that is marketed or otherwise exported by a state-owned enterprise of the People's Republic of China shall be ineligible for such nondiscriminatory treatment. Such nondiscriminatory treatment shall be in effect for the period of time the waiver referred to in section 3 would have been effective had it taken effect.

(b) EVENTS.—Nondiscriminatory treatment as described in subsection (a) shall apply if—

(1) the President fails to request the waiver referred to in section 3 and reports to the Congress that such failure was a result of his inability to report that the People's Republic of China has met the standards described in that section; or

(2) the President requests the waiver referred to in section 3, but a disapproval resolution described in subsection (c)(1) is enacted into law.

(c) DISAPPROVAL RESOLUTION.—

(1) IN GENERAL.—For purposes of this section, the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on _____ with respect to the People's Republic of China because the Congress does not agree that the People's Republic of China has met the standards described in section 3 of the United States-China Act of 1992.", with the blank space being filled with the appropriate date.

(2) APPLICABLE RULES.—The provisions of sections 153 (other than paragraphs (3) and (4) of subsection (b)) and 402(d)(2) (as modified by this paragraph) of the Trade Act of 1974 shall apply to a resolution described in paragraph (1).

(d) DETERMINATION OF DUTY STATUS OF ENTERPRISES.—

(1) Subject to paragraph (2), the Secretary of the Treasury shall determine which businesses, corporations, partnerships, companies, or other persons are state-owned enterprises of the People's Republic of China for purposes of this Act and compile and maintain a list of such businesses, corporations, partnerships, companies, and persons.

(2) For purposes of making the determination required by paragraph (1), the following definitions apply:

(A)(i) The term "state-owned enterprise of the People's Republic of China" means a business, corporation, partnership, company, or person affiliated with or owned, controlled, or subsidized by the government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A business, corporation, partnership, company, or person shall be considered to be state-owned if—

(I) its assets are primarily owned by a central or provincial government authority;

(II) a substantial proportion of its profits are required to be submitted to a central or provincial government authority;

(III) its production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(IV) a license issued by a government authority classifies the enterprise as state-owned.

(ii) Any business, corporation, partnership, company, or person that—

(I) is a qualified foreign joint venture or is defined by such authority as a collective or private enterprise; or

(II) is wholly owned by a foreign business, corporation, company, or person,

shall not be considered to be state-owned.

(B) The term "foreign joint venture" means any business, corporation, partnership, company, or person—

(i) which is registered and licensed in the agency or department of the government of the People's Republic of China concerned with foreign economic relations and trade as an equity, cooperative, or contractual joint venture; and

(ii) in which the foreign investor partner and the business, corporation, partnership, company, or person—

(I) combine their assets;

(II) share profits and losses; and

(III) jointly manage the venture.

(C) The term "qualified foreign joint venture" means a joint venture—

(i) in which the foreign investor partner holds or controls at least 33 percent of the investment;

(ii) in which the foreign investor partner is not a business, corporation, partnership, company, or other person of a country the government of which the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 to have repeatedly provided support for acts of international terrorism; and

(iii) which does not use state-owned enterprises of the People's Republic of China to export its goods or services.

(e) PETITION FOR CHANGE IN DUTY STATUS.—Any person who believes that a particular business, corporation, partnership, or company should be included on or excluded from the list compiled by the Secretary under subsection (d) may request that the Secretary review the status of the business, corporation, partnership, or company.

SEC. 6. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1993 under section 402(d) of the Trade Act of 1974 for the People's Republic of China, he shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

SEC. 7. DEFINITIONS.

For the purposes of this Act:

(1) DETAINED AND IMPRISONED.—The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(2) CONVICT, FORCED, OR INDENTURED LABOR.—The term "convict", "forced", or "indentured" labor has the same meaning given to such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(3) VIOLATIONS OF INTERNATIONALLY RECOGNIZED STANDARDS OF HUMAN RIGHTS.—The term "violations of internationally recognized standards of human rights" includes but is not limited to torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(4) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(5) SIGNIFICANT PROGRESS.—(A) The term "significant progress" in section 3, means the implementation of measures that will meaningfully reduce, or lead to the end of the practices identified in that section.

(B) With respect to section 3(4)(C), progress may not be determined to be "significant progress" if, after the date of the enactment of this Act, the President determines that the People's Republic of China has transferred—

(i) ballistic missiles or missile launchers for the M-9 or M-11 weapons systems to Syria, Pakistan, or Iran; or

(ii) material, equipment, or technology that would contribute significantly to the manufacture of a nuclear explosive device to another country, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapon.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Kentucky.

Mr. FORD. Mr. President, I ask unanimous consent that when a quorum call is granted it be equally divided.

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

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

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

Mr. MITCHELL. Mr. President, I yield myself such time as I may use.

The PRESIDING OFFICER. The Senate majority leader has the floor.

Mr. MITCHELL. Mr. President, we are learning that, unfortunately, the new world order has much in common with the old world order. Nowhere is that more so than for the 1 billion people who live within the borders of the People's Republic of China.

The hand of Communist repression is still at the throat of Chinese freedom. The Government agencies of China, which masquerade as private companies, still dominate the strategic trading partnership.

Most important, despite the claim that a new world order has come into being, in which nations can no longer disregard their international obligations, the Government of Communist China continues to thumb its nose at the international community with impunity.

The single largest reason why the Chinese Government can do this and continues to do this is because of the unfortunate policies being pursued by the United States Government.

China's discredited, hard-line Communist leaders know that regardless of the views of the Congress, regardless of the views of the American public, they have a friend in the White House. As a result, they need do no more than pay lip service to the claims of the international community and to the stated goals of American policy itself.

In June 1989, the Chinese Communists sent tanks against unarmed students and workers before the shocked eyes of the watching world. The administration announced that it was cutting off all high-level contacts with the Chinese Government. And yet just a few months later the President

sent a high-level delegation to China secretly. For the past 3 years the administration has overlooked every insult to the free world and every insult to America directly. They have made excuse after excuse for repression within China and intolerable conduct abroad by the Chinese Government.

But it is not America's insistence on democracy and the rule of law which are the problem. It is China's denial of them.

And all the while, our trade deficit with China has grown to $19 billion, second only to our deficit with Japan. The administration has not shown the slightest concern about the effect of this deficit on American jobs, American producers and American economic growth.

In short, the administration's policy is a failure. It is not moving China toward democracy. It is not making China respect international trade laws. It is not making China a reliable member of the law-abiding international community. The policy is a failure. It is time to change that policy.

The measure before us today would change that policy. It would condition the continuation of most-favored-nation trading status with China in 1993 on the President being able to report at that time that China's leaders have taken action in accordance with their own freely made commitments—a minimal requirement of any nation's leaders, asking only that they keep their word, and a minimal requirement for any nation which seeks the trust of others. The President would have to certify that China has:

First, acted to begin adhering to their commitment to the U.N. Universal Declaration of Human Rights in China and Tibet;

Second, acted to fulfill the commitment to Secretary Baker to allow unrestricted emigration of persons subject to persecution;

Third, provided an acceptable accounting of citizens detained, accused or sentenced since the repression in Tiananmen Square for the nonviolent expression of political beliefs;

Fourth, demonstrated a good faith effort to release those imprisoned for such expression; and

Fifth, acted to stop exporting products made by forced labor to the United States, verified by U.S. Customs' access to places where such products are made.

These are minimal human rights requirements. There is nothing unreasonable about asking any government in the world to meet such standards. The claim that internal affairs are no business of any other nation should have been buried with Hitler and Stalin. Today, in the wake of the cold war, there is no longer any basis for suggesting that the government which presides over the lives of fully one-fifth of the human population of the Earth is entitled to an exemption from such minimal standards of decency.

With respect to China's international obligations, the bill would require that the President affirm the following:

First, that China's Government has ceased religious persecution and repression in China and in Tibet;

Second, that China's Government has ceased unfair trade practices with respect to United States-Chinese business;

Third, that China's Government is abiding by the guidelines and parameters of the Missile Technology Control Regime and the Nuclear Suppliers Group. These, too, are modest and minimal expectations of decent international behavior. We do not permit our closest allies to cheat us in trade. China does not deserve better treatment than our best friends. We seek to prevent friends and trade partners from practicing religious persecution. China should face the same minimal expectation. We restrict the export of potentially dangerous arms technology and we ask our allies to do likewise. So should China.

More importantly, the bill would not and will not cut off trade conditions for genuine, bona fide private Chinese companies, operating privately for the benefit of private Chinese citizens.

It would limit MFN status only for government corporations—those entities known to be financed and controlled by the Government.

Relations with private companies and joint venture companies in which American businesses are working would not be affected.

The bill would not, therefore, have the slightest impact on the right of private Chinese citizens to enter and work in the private market. It would not impede the economic growth of the private sector in China. It would not prevent the expansion of private Chinese wealth or the ability of Chinese people to gain a measure of independence from the stranglehold of their Government.

It is hard for me to see how anyone dedicated to the goal of free economics, private ownership, the betterment of private citizens and the reduction of Government influence could possibly take exception to this bill.

It meets every criterion of reason, fairness, and the best national interests of the United States. The conditions to be reached are neither onerous nor unfair. They are conditions that the Chinese Government itself has claimed it can and will meet.

I repeat: The conditions in the bill are conditions which the Chinese Government itself has said that it can and will meet. Why should we object to asking the Chinese to do what they have said they are prepared to do.

The bill is a sharp contrast to the failed policy of the Bush administration, which has produced no results, improved no trade balance, stopped no arms proliferation, and freed no dissidents.

Indeed, to the extent that our national interest lies in a world at peace with expanded trade for private businesses and a growing economy for the world's workers, this bill is a positive step in that direction, because it is the hard currency China's Government earns from United States sales which is today financing the purchase of sophisticated war planes, ships, and weapons from the former Soviet Union.

The bill supports fundamental American values while giving the administration a useful tool over the next year to encourage meaningful progress in human rights and fair international trade by Communist Chinese leaders.

It puts the Communist Chinese leaders on notice that they must keep their commitments or risk losing favorable MFN tariffs on products and exports of State-owned enterprises. It is targeted and tailored precisely to place the responsibility and cost of Chinese policies on those directly responsible for those policies. It is neither over-broad nor indiscriminate in its reach. Instead, it meets the claimed objections of the President by making certain that only those who devise and implement policies inimical to U.S. interests and international order would feel the effects.

Recent news from China reflects the fact that nothing serious has changed, despite almost 4 years of promises by the administration that its policy would produce results. Consider these recent developments: China arrested and jailed Shen Tong, a leader of the pro-democracy movement, upon his return to China, even though he was implicated in no violent or dangerous actions.

China has threatened a trade war against United States products if the United States acts under American trade law to seek access to markets in China. In other words, China wants her trade surplus with the United States, achieved by unfair trading practices, to be guaranteed forever and is willing to fight for it.

China now threatens to walk out of the Middle East peace talks because of the sale of American F-16 fighter jets to Taiwan. President Bush says China's involvement in the talks is proof of China's moderation. Some proof.

News reports have already cited unnamed administration officials as saying, "The Chinese are only in those talks for fear of embarrassment at being outside, they have been the biggest obstacle up to now to any progress and they have been looking for any pretext to leave." Some moderation.

In the near future—the actual date itself remains a state secret in the Communist Regime—the 14th Communist Party Congress will take place in China. The group of seven geriatric

leaders now in charge of that nation will face those who now operate the levers of power in provinces and cities around the country, those who hope one day to replace them, those who are striving to preserve and enhance their privileges over the people.

The one interest the Chinese leaders will not see represented at their Party Congress is the interest of people of China—the people who endured martial law, the people who now struggle under the heavy hand of Communist tyranny throughout their country.

China's leaders today are virtually all in their eighties. All of us here in this debate and in this country should recall one inexorable fact: The days of all men are numbered, and the Government of China is not exempted from the common fate of mortals.

One day not too long from now there will be a Government in China made up of people who did not send the tanks into Tiananmen Square, who did not declare martial law, who did not suppress the emergence of China as a free nation.

What will those new leaders think of the United States—the United States which stood foursquare with the forces of reaction and repression while a truly new China was struggling to be born? We have a choice today between aligning ourselves with the old Communist tyrants or with the forces of freedom.

It is in the interests of our Nation, in the future as well as today, to move beyond what I think clearly is a blind spot in the administration with respect to China policy, and forge a policy today that will make America the friend of a new and free China tomorrow.

This legislation is the path to that new policy. It should be passed.

And I want to conclude, Mr. President, and Members of the Senate, by making a statement I made at the Finance Committee when we took this matter up.

We all regret the loss of human life by violent means. Some of us visited the former Yugoslavia recently. We, of course, viewed the events in Persian Gulf as tragic. We observed what has happened in Somalia. We recoiled with horror at the almost infinite capacity of man to punish and kill others.

But one of the most shocking things ever said in my presence was said right out near the Rotunda some months ago and since, when the Dalai Lama, the religious and spiritual leader of Tibet came to this country. We received him with honor. He said that the Chinese have murdered more than 1 million Tibetans.

A country of 5 or 6 million people had more than 1 million of its people murdered by the Chinese. Where is the outrage? Where is the shock? Where is the concern?

I frankly found it and find it hard to believe that it is true. And I have asked over and over again in public: Is there anyone who can stand up and document and state that that this allegation is untrue, that can tell us that it did not happen, that the Dalai Lama is wrong, uninformed, exaggerated?

There has been no such response. I do not know whether it is true. The full sum of my knowledge comes from assertions made by the Tibetan leader who, understandably, is not objective. But even if it is true in small part, is this not a matter of concern to us?

We take far stronger action than we are proposing here for far less in the way of actions by others. And when you combine that with the fact that our trade deficit continues to skyrocket with China, based upon—to a significant degree—their unfair trade practices; combine that with their intransigence with respect to sales of nuclear materials and technologies, this bill is reasonable, moderate, and represents the kind of step that we should be taking.

Mr. President, I urge my colleagues to support the bill. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. I yield to the Senator from Missouri 5 minutes.

The PRESIDING OFFICER. The Senator from Missouri [Mr. DANFORTH], has the floor.

Mr. DANFORTH. Mr. President, if the issue before the Senate were whether we approve of the People's Republic of China, or whether we want to align ourselves with the Government of the People's Republic of China, the vote would be 100-to-zero in the negative. The People's Republic of China's Government is reprehensible, and everything that was said about it by the majority leader is absolutely correct. But that is not the precise issue that is before us today.

The issue is not whether we like the PRC. The issue is whether or not most-favored-nation status should be withdrawn from the People's Republic of China. The question is whether trade—whether trade sanctions—are useful as a foreign policy tool and, if so, to what extent they should be used.

I would point out to the Senate that, as a general matter, we have refrained from using the withdrawal of most-favored-nation status as a foreign policy tool. Countries with governments that we have had sharp conflicts with continue to have most-favored-nation status. Iraq has most-favored-nation status. So does Iran. So does Libya. To give most-favored-nation status does not mean that we approve of the activities of all of those countries.

It is interesting that what we are doing here in the Senate today is a reversal of the usual role that we have with respect to the executive branch, regardless of who the President is. I can remember back in the days of President Carter, and certainly in the days of President Reagan, and President Bush as well, taking the position that international trade should be elevated; that international trade should have a higher priority with respect to American policy; that trade should not be simply a bargaining chip in foreign policy. That is generally the position that Congress takes against the executive branch no matter who is occupying the White House.

We, Congress, are the advocates of the commerical interests of the United States. We in Congress, closet to the people, are the advocates for jobs for the American people. And, therefore, we have said that trade should have a higher priority and that it should not be simply cashed in to accomplish foreign policy objectives.

In this legislation, trade is cashed in, trade is made secondary in an effort, and I would say a futile effort, to achieve some foreign policy objective. Who among us believes that the Government of the People's Republic of China is going to change its policy if we threaten to withdraw most-favored-nation status? As a matter of fact, now Acting Secretary of State Eagleburger, when he was Deputy Secretary in 1991, was asked this question by the Finance Committee. Mr. Eagleburger was asked whether conditional MFN really meant conditional MFN? And he said, and this is a quote:

> We believe such a solution would be illusory and a recipe of failure. Throwing down the gauntlet with a public ultimatum on MFN—indeed one specific to China—would only make it easier, not harder, for conservative Chinese leaders to claim that national honor and sovereignty precluded any concessions. Our credibility would require us 6 months or 1 year from now to terminate MFN if China failed to meet each and every condition imposed.

So it is the position of Mr. Eagleburger that this would not work; that the Government of China would simply get its back up; that it would make no concessions whatever. And then what would happen? Then what would happen is that Americans who owe their jobs to exports—and there are many Americans who owe their jobs to exports—would simply find their business going elsewhere.

Mr. President, it is absolutely clear that the void that would be created unilaterally by the United States by unilateral trade sanctions not joined in by any other country in the world—that vacuum would simply be filled by other countries.

Wheat sales, aircraft sales would be filled by the Europeans; computer sales would be filled by the Japanese. We would lose. We would gain absolutely nothing. China would maintain its existing policies.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I yield 5 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. COCHRAN].

Mr. COCHRAN. Mr. President, nondiscriminatory trade with China was established by the United States in 1980. Since then, commercial treaties, consular agreements, cultural exchanges, and business relationships have strengthened the links between our two nations, the United States and China. China's leaders have begun market-oriented reforms which have led to expanded United States trade opportunities and growth in the economies of both of our countries.

This progress was obviously interrupted and suffered a serious setback in 1989 when we observed the Tiananmen Square uprising and the repression of the human rights that were exhibited for all of us to see on television and reported in our newspapers. Of all the Nations in the world, the United States took the strongest stand against that repression. Our country has been the most determined advocate in the world community of changes and reform to provide human rights to the people of China by its Government. Although progress has been slow, progress is being made.

Unfortunately, this legislation would bring that progress and many other reform efforts to a screeching halt. Nondiscriminatory trade treatment is essential to the continued opportunity for us to influence change and reform in China. Americans must be free to do business in China without the restrictions imposed by this legislation. Those who would be hurt are farmers, consumers, and exporters in the United States and reformers in China. The hardliners in Beijing would be helped just at the time when China, stimulated and influenced by trade with the outside world, and in particular by trade with the United States, is undergoing significant economic and political change. The legislation before the Senate is not in the interests of the United States, and the President should veto it if it reaches his desk.

Here are some facts which ought to be considered by the Senate. Over 1,000 United States firms have invested more than $4 billion in China, and another $5 billion in Hong Kong. Our exports to China came to $6.3 billion in 1991, an increase of more than 30 percent over 1990, making China the fastest-growing Asian market for United States exports.

Any change in MFN would hurt south China in particular, where free market and prodemocratic forces are strongest, costing up to 2 million jobs and penalizing those Chinese we should be helping.

An end to MFN would cause major losses to United States wheat and grain growers, whose annual sales in China have averaged over $600 million for the past 3 years; commercial aircraft manufacturers, for whom China has become a $500 million-a-year market; computer and industrial construction machinery manufacturers, whose $1 billion sales last year were up 23 percent over 1990; and phosphate fertilizer manufacturers, who sell one-sixth of their entire annual output to China. If we ended MFN for China, Japanese and European competitors, whose Governments have no intention of restricting their trade, would gain the advantage in the increasingly lucrative Chinese market.

While we cannot and should not ignore violations of law, the answer to such violations should be vigorous law enforcement and aggressive negotiation, not withdrawal or conditionality for China's MFN status.

We should continue to target specific grievances with the tools we already have. This policy of targeted sanctions has already produced results. In weapons proliferation, China acceded to the Nuclear Nonproliferation Treaty earlier this year, and it has agreed to adhere to the Missile Technology Control Regime. In trade, China is implementing reforms it agreed to make under an Intellectual Property Rights Agreement reached in January to improve protection of patents and copyrights, including computer software, and it has agreed to join the Berne Copyright Convention and the Geneva Phonograms Convention.

There are other agreements that have been reached by the U.S. Trade Representative, and others are expected in human rights. And in other areas, progress is being made.

I will conclude, Mr. President, by saying that, according to a recent Forbes magazine article of March 30, 1992:

> Sometime in the coming year in the People's Republic of China, private-sector industrial production will increase to over 50 percent of total output for the first time since before Mao Tse-tung took over in 1949.

This growth in the private sector is loosening the Communist Party's controls over the economy. It is false, plain wrong, to assume that our trade relations are propping up the hardliners in Beijing and undercutting the reformers. It is just the opposite. The fact is U.S. trade and investment are encouraging these reforms.

It would be a mistake for the Senate to pass this bill.

I thank the distinguished Senator for yielding time.

The PRESIDING OFFICER (Mr. KERREY). Who yields time?

Mr. BENTSEN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, today the Senate is again trying to define the objectives of United States relations with the People's Republic of China.

Earlier this year, the Congress passed a bill demonstrating that there was a clear consensus regarding the objectives of United States-China policy. Unfortunately, the President chose to veto it.

Rather than pursuing a path that affirms our commitment to democratic ideals, the administration has spent the last 2 years making apologies for the last great Communist power. Dictators have fallen around the world, but the administration continues to argue for a policy of engagement with the dictators of Beijing.

Until June 1989, most Americans agreed that the United States should be actively working for trade and better relations with China. Each year since 1980, the President extended most-favored-nation treatment to the Chinese. That extension had become routine. But the events of June 1989 brought about a dramatic change in the way Americans think about China. Now when we think of China, we have visions of violence, of repression, of tanks turned upon innocent people.

For 3 years now, we have debated whether we should maintain normal trade ties with the Government that we watched turn so brutally on its own people, and we have been troubled about the continuing business as usual with such a Government.

At first we were patient. We allowed the President to choose the course of our China policy. But that choice has failed. Political repression in China continues unabated, and our patience runs thin. Indeed, it has run out.

In August, we heard testimony in the Finance Committee from President Reagan's last Ambassador to China, Winston Lord. He counseled us to forge a China policy that both conducts requisite business and honors our ideals. He counseled us to pass the bill that is before the Senate today.

This bill really makes only modest demands of China. It asks that before extending China's most-favored-nation status next year, the President review China's record on human rights, trade, and weapons sales, and just find that some improvements have been made, that we are making some progress. But the President claims that we should not even do that.

The conditions set forth in this legislation are reasonable. They are not extreme, as some would claim. The bill only asks for a credible demonstration on China's part that it will account for, and release, citizens arrested for the peaceful expression of their political beliefs. It asks China to fulfill its promises to the Secretary of State regarding free emigration. It asks China to abide by United States laws that forbid imports of products made by forced labor. And finally, the bill just asks China to make progress in ceasing religious persecution, in ending its unfair trade practices, and in abiding by international guidelines on weapons proliferation.

Mr. President, those are not unreasonable conditions. They are not extreme. They are the minimum that we ought to ask a country which is enjoying a highly profitable trade relationship with this country.

Let me address that trade relationship more specifically. When countries agree to grant each other most-favored-nation status, it is the assumption that what you are doing is going to benefit both of these countries involved. But look at what has happened since we gave China most-favored-nation status. China has seen an $18 billion increase in its exports to us. Our exports to China, on the other hand, have only gone up about $4 billion.

As each year passes, our trade relationship looks better for China and looks worse for us. Trade with China added nearly $13 billion to our trade deficit last year. So far this year, the deficit is up nearly 60 percent. We are headed for a $20 billion trade deficit with that country this year.

Now, I understand when you make that kind of MFN agreement, between two countries, you are not sure trade is going to advance equally between the two. It just may not work out that way, particularly if you are talking about free trade.

But if you are talking about a situation where they are putting restraints on your products coming into their country, when they are limiting the imports, applying tariffs as high as 200 percent and requiring import licenses on nearly half of their trade, you don't have fair trade. That is why we disproportionate increase in trade between our two countries.

If the central Government decides that Chinese producers need protecting, or that some particular American product does not fit the Government's development plans, then no imports. That means you see situations like our steel exporters faced. China centralized control of the steel trade, and in 1 year's time, our exports dropped to one-sixth of what they were. That is surely not the free marketplace.

China uses a whole variety of trade barriers that are more subtle but equally effective. For example, it does not publish its trade directives, so the exporters do not know what they are up against. It holds imports up to higher quality standards than Chinese goods. And more often then not, it does not tell our exporters just what those standards are. The bottom line is China refuses to import anything it decides it would rather make itself.

At the same time, China has placed a high priority on increasing its exports, and it sure has an arsenal of tools in that area as well. The USTR reports that at least 90 percent of China's exports receive some kind of Government support. It comes in a variety of forms; for example, lower tax rates, preferential credit rates, and exemptions from import duties. They also have parallel exchange rates which give Chinese exporters a 50 percent to 70 percent premium over the official rate.

When we see the value of our dollar dropping today, it's because of the marketplace not through this kind of official reduction.

When we normalized relations with China, we spoke of the enormous potential for American business. Business today still talks that way. But what is the reality? The reality is the Chinese Government controls or manipulates trade to make sure it works to China's advantage.

China talks a lot about wanting to join the GATT. Under the 1988 Trade Act, the administration cannot grant China benefits of the GATT until China agrees to operate its state trading companies in accordance with commercial considerations. If they do not get such an agreement, the administration needs congressional approval before granting China any GATT benefits. As long as China makes Government-driven rather than market-driven decisions in international trade, and as long as China treats United States companies unfairly by protecting its market while preying upon theirs, I just do not see any reason to let China into GATT.

Mr. President, you will surely hear it said today that, with this bill, China is being singled out, even among the most reprehensible of nations. It will be said we give MFN to Iraq, to Libya, even Serbia, the site of so much bloodshed today. That is true. Technically they receive MFN; that is, if we were letting any imports into the United States from those countries. In fact, we have a much harsher sanction in place for those countries. We have complete commercial embargoes against them. What we are proposing with China is nowhere near the sanction that we have imposed against the worst. So do not be fooled by the suggestion that we are treating China worse than we treat countries like Iraq and Serbia.

I urge my colleagues to join me in voting for this bill. Once again, the Congress needs to deliver the message that fails to come from the President.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 2 minutes, 17 seconds.

Mr. PACKWOOD. How much time do I have?

The PRESIDING OFFICER. Fifteen minutes, 58 seconds.

Mr. PACKWOOD. I yield myself 8 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, let us try to put this issue in perspective as to why we are going to treat China differently than other nations are treated. We have heard the argument about China's human rights, weapons proliferation, and trade policies. China has had most-favored-nation status since 1980. It got it in 1980, and thoughout the 1980's it had to be renewed every year. Congress never even asked to vote on it. We expressed no concern at all until the events in Tiananmen Square.

Now, did we know that China was selling weapons overseas in 1980 through 1985? Yes. Did China have what we would regard as an unsatisfactory trade policy? No question. We knew it in 1980, 1981, and throughout the 1980's, and so on. Were they guilty of violating human rights in those days? Yes, they were. Did we know about the atrocities in Tibet? Yes, we did. Yet Congress continued to grant most-favored-nation status year after year without even asking for a vote on the floor of the Senate or the floor of the House, and we could have asked for it. We chose not to. Why is it that we went for a decade and never asked for a vote and then, suddenly, this has become a controversial issue.

The Chair and this body knows there is only one reason; and that is the pictures from Tiananmen Square, not the act of Chinese repression. That we knew. Not the act of selling weapons. That we knew. Not their trade restrictions. That we knew. But because the American public had seen it on television and was justifiably offended, Congress now feels the need to placate public opinion.

I think it is a fair debate whether or not we are going to extend most-favored-nation status to China because they violate human liberties. But if we are going to, then most of the other countries of the world that we extend most-favored-nation status to also violate human liberties. And it is much easier to put it in the negative than the positive as to which countries do not have most-favored-nation status.

When we have finished giving it to Albania and Romania, which we should soon accomplish, and the now commonwealth states of the former Soviet Union, and that should not take too long for most of them, there will be six countries left in the world that do not have most-favored-nation status. Six: Afghanistan, Cuba, Kampuchea—the old Cambodia—Laos, North Korea, and Vietnam. That is it. We give it to Burma, who has had under house arrest for a year and a half the democratic leader of the opposition. We give it to Guatamala, who year after year is cited by the Human Rights Coalition as one of the worst in the world. We give it to Ethiopia, Angola, and even Syria where President Assad bulldozed the town of Hamah and killed 20,000 men, women, and children. We give it to Syria. We put limitations on them, as we can put limits on China in our other laws if we want to. But television did not show the town of Hamah and the 20,000 bodies, so we overlooked it.

In terms of China and weapons proliferation, they have signed, as of

March of this year, the nonproliferation treaty. They agreed, on March 23, to abide by the missile technology control regime. They have agreed to work with us in keeping the North Koreans from developing atomic weapons. They have agreed to let everyone have exit permits in China who do not have criminal proceedings against them. They have agreed to let us check on their prisons and check on prison labor.

They have signed an international property rights agreement with us in which we estimate we will have $300 or $400 million from patents and copyrights that they have otherwise been infringing. All of this they have done. And had any other country done this, we would, with an open hand, have been delighted to give them or extend or continue most-favored-nation status.

So it is one reason and one reason only. We saw it on television. Every one of us has burned into our memory the picture of the young man with the briefcase standing in front of the tanks and the tanks coming to a dead halt; one lonely person against the army.

I say again, Mr. President, if we want to have a debate, it is fair to have a debate on whether we ought to change what has been our historic position on MFN; that is, we will give it to every nation in the world, and we will give it to Communist nations if they allow free emigration, and China does. China's problem is not that she does not allow free emigration. China's problem is that most of the nations of the world will not take in enough Chinese, including the United States. We are not going to get into an argument about our immigration quotas, but China would be happy to let out a lot more people who want out than the rest of the world will take in. So they met that standard.

If the policy of the United States, economic, foreign, military, or otherwise, is going go be based upon whether or not we see it on television and, if we did not see it on television, it in essence did not happen, then we can rest assured that the remainder of the dictatorships in this world—and most of the countries that we deal with in the world are not democracies—are going to make jolly well sure that no Western television or journalists or photographers ever get into their countries.

So I urge that this legislation be defeated. I urge that we have a full-scale debate in this Senate upon what we want most-favored-nation status to be dependent upon. But because we saw television pictures, they separate China out, and say we are going to hold you to a different standard from Burma, Angola, or Guatemala. This bears no relation to reality. Let us have the debate again, Mr. President, but let us not single out China and, in the process, cut off our economic nose to spite our face.

I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I would like to comment briefly in response to one of the lines of argument made, and that is about economic effect and also about singling out China. The distinguished Senator from Oregon just stated a list of countries that still have MFN.

First, on the economic effect. According to the administration itself, the Department of Commerce, each $1 billion of trade deficit costs about 20,000 American jobs. That is the figure that is widely used and accepted, and it is, according to my understanding, used by the administration itself. We will have, this year, a trade deficit with China approaching $20 billion. So, according to the administration itself, we are losing 400,000 American jobs as a result of the trade deficit with China.

The discussion here has focused on those American companies that sell goods to China. But what about the 400,000 Americans who have lost their jobs because of unfair competition with goods produced in China, some of it with forced labor? Textiles and apparel is a good example, as is children's clothing, which used to be made in this country by Americans that is no longer made in this country. Those Americans are out of work because they have been placed into an unfair competitive situation.

So when we talk about the economics of it, let us recognize that we are losing about 400,000 American jobs because of this trade deficit.

Second, and just a minor point, but with respect to this list of countries with whom we retain most-favored-nation status, as the Senator from Oregon knows, there are other laws which apply to our trade, such as trading with the enemy and other provisions. So as a matter of fact, we do not trade with Libya; we do not trade with Iraq; we do not trade with several other countries, to my understanding.

Therefore, the argument, at least insofar as it includes those countries with whom we do not trade, is really academic. I think the argument has force with respect to those countries the Senator believes have a worse human rights record and a worse record in international trade but with whom we still trade. I do not think it applies with respect to those countries with which we do not trade at all for other unrelated reasons.

Mr. President, I yield the floor.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that an amendment be permitted to be offered on behalf of Senator JOHN KERRY of Massachusetts and Senator SMITH of New Hampshire. It is part of the House bill and calls for cooperation by the Chinese Government with the United States in efforts to account for United States military or other Government personnel taken prisoner, missing in action, or otherwise unaccounted for as a result of their service in the Korean conflict or the Vietnam conflict.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, we have not seen the amendment. If I could just have a look at it.

Mr. President, just for the moment, I am going to object.

The PRESIDING OFFICER. Objection is heard. All time of the majority leader has expired, and the time is currently being charged to the Senator from Oregon.

Mr. MITCHELL. Mr. President, I yield 5 minutes of my leader time to the distinguished Senator from New Mexico [Mr. BINGAMAN].

THE MOST-FAVORED-NATION ISSUE

Mr. BINGAMAN. Mr. President, I thank the majority leader for the time, and I appreciate very much the opportunity to say a few words about the MFN issue. Particularly, my interest in it was sparked by a hearing we had in the Joint Economic Committee earlier this summer on the Chinese economy.

We have a lot of talk as we approach the election, Mr. President, about jobs and the need to create jobs in this country. We also have a lot of talk about the importance of free trade and the importance of our trade relations, particularly in regard to the North American Free-Trade Agreement. I would like to put some of that into the context of what is happening to our trade relations with China, because I have to say that it seems to me this is a case study of what we do not want to see in the case of Mexico, a case study of what we really do not want to see with regard to any of our trade partners.

Clearly, we all favor more trade. But I think we all also favor maintaining some balance, some reciprocity in our trade relations with other countries. China has made a strategic decision and a concerted effort to pursue a trade export policy, export promotion policy in order to maintain a very large trade surplus with ourselves and the rest of the world. They succeeded beyond anyone's expectation, or at least beyond mine. In 1991, the gross national product in China grew 7 percent. Industrial output grew by 14 percent. The foreign investment sector of their economy grew by 56 percent.

Trade relations with China have become more and more imbalanced in the last 3 or 4 years. During the first year of this administration, the trade sur-

plus that China enjoyed over the United States was in the range of $3 billion. This last year, it was over $12 billion. And the estimate which we got during this hearing is that this year that trade deficit with China could well reach $19 to $20 billion. This makes it the second largest trade deficit that we have with any of our trading partners. Of course, our trade deficit with Japan is first.

The problem is one which has given China a tremendous amount of foreign exchange. The foreign exchange reserves in China today are estimated in the range of $43 billion. That is in the same range as our U.S. foreign exchange reserves, which are now estimated at $44 billion. So we can see how successful the Chinese have been.

As our trade deficit with China has grown and their surplus with us has grown, it has been clear that it is the result of concerted efforts by the Chinese not only to increase their exports to the United States, which have increased very substantially, but also to restrict our ability to export to them. They have imposed tariffs, they have imposed quotas, they have imposed numerous bureaucratic hindrances and obstacles to our ability to sell to their consumers.

We still have some sales to the governmental entities in China but our ability to sell consumer goods to them has been blocked very effectively by them.

This trade imbalance that China has run with the rest of the world has caused other countries to criticize China as well as the United States. But I would say when you look at the other countries it is clear that the United States is carrying the bulk of the burden of trying to absorb this amazing trade imbalance.

There have been some retaliatory actions; very minimal ones. Japan initiated a first ever antidumping investigation. South Korea imposed tariffs on agricultural and industrial products in response to their very large or growing bilateral trade deficit with China. And the Philippines has identified China as the primary reason for steps it is taking to reduce trade imbalances with Socialist countries. China on its own has clearly taken some steps to try to deal with this but they have been much more cosmetic than real.

According to the CIA testimony before our committee, they concluded that many of these well-publicized buying missions that the Chinese have engaged in in this country and in Europe have in fact merely finalized contracts that had already been entered into. There was not in fact any substantial new trade that resulted from it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to continue for 2 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Mr. President, I do not have 2 minutes to give from our side, I do not believe. The sponsor or the manager is not here.

Mr. BENTSEN. Mr. President, I was advised by the majority leader he will respond.

Mr. SIMPSON. Two minutes from the leadership on this side of the aisle if we have remaining.

Mr. MITCHELL. Mr. President, I yield 2 additional minutes of my leader time to the Senator from New Mexico.

Mr. BINGAMAN. I thank the majority leader very much for his courtesy.

Let me point to these two charts in the remaining 2 minutes. One shows the trade imbalance with China as we have gone into 1991. The other shows the same thing in a slightly different form.

Let me cite one other fact for the Senate to consider. Intertwined with trade is the issue of export control restrictions. And a recent article which has concerned me came out in the Japanese magazine Bungei-Shunju which pointed out that in 1985 a Japanese firm knowingly violated Cocom export control by shipping to China semiconductor manufacturing equipment which was used to improve the guidance system in China's nuclear missiles and perhaps to develop MIRV warheads as well.

Mr. President, I will put a little more information in the RECORD about that. But again this is one additional reason we need to have a total review of our trade relations with China.

I think the effort to question the continued MFN status with China is well taken. I support the initiative of the majority leader in that regard, and the leader of the Finance Committee, and I hope the Senate will go along with that effort this year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I rise in opposition to H.R. 5318, the bill which would condition the extension of most-favored-nation treatment to the products of the People's Republic of China. I firmly believe that we stand on the edge of making a very serious mistake, should we, even with perceived good intentions, isolate ourselves from China.

In this politically charged year the temptation will be great for many to rise up and speak out in favor of terminating or conditioning MFN status for China as a way of demonstrating concern about human rights abuses in China and Tibet, Chinese arms proliferation and any number of other issues. The administration's policy of engagement allows integral ongoing dialogue on all fronts—most importantly, human rights, nuclear arms proliferation, and trade. We all agree with that.

Threatening China's trade status will not cause China to respond to us on any of those issues—at least to any acceptable degree. Those who understand China intimately know that China will not hesitate to sacrifice trade, sacrifice living conditions within its own country and absorb any kind of outside punishment that we think to apply to them, rather than let itself be seen in the eyes of the rest of the world as succumbing to the kinds of pressures that we, in our own form of political debate and with our own motivations in mind, feel we should apply.

This annual review of MFN for China by Congress is worthwhile. I will not argue one stitch about the need for accountability around that issue. But, the constant threat of the revocation of MFN to China has taken a political life of its own. It rises here only because it is closer, and the closer it gets to the election the closer we want to get MFN. This is one of those blasters that has a detonating cap on it, and those in opposition want to put the plunger down as soon as they can so it will blow up before November 3. We know how that works.

I think this effort is becoming increasingly self-defeating. People come to us and say: We will bargain our position. We were on the other side before. Political, it is. Effective, it cannot be and will not be.

How do you gain from closing off trade with one fifth of the world's population? The hardliners cannot wait for us to make our move. They will simply go back into an isolated cloistered existence, shut away from the rest of the world and say "there", and we will not be able to see or learn what goes on. It is just about the height of absurdity. How it is to our best interest to suddenly put the screws to them and say we are going to do something which is going to recreate more of an ability for China to cloister itself away from the entire world is something I do not understand. It is absolutely absurd. Conditioning would have a similar and only marginally less severe effect. It will cause the United States scarcity of some products now being manufactured or assembled in China and exported to the United States, increased prices for Chinese products, the loss of investment opportunities for many major American corporations, and the outright loss of American jobs in those companies largely involved in this development.

American corporations doing business in Hong Kong and in southeast China are only now beginning to effectively tell their story, and it is compelling indeed. If we cut ourselves off, it will not be too long before industries based in other countries will move in to fill the void we leave in our established markets—such as grain, air transportation, and electronics—and the engines bringing free market enter-

prise to China will eventually come back to speed without us. We will have simply cut ourselves out of the action. That is reality. These issues are important and diverse. They can be debated on many fronts. One front is economics. American businesses of all kinds continue to be reluctant to go forward with investment opportunities in China due to the prevailing environment of instability. Our threat of MFN revocation, in itself, is restricting the competitiveness of United States businesses in China.

In the decades that lie ahead, as China's more than 1 billion people become ever more productive and ever more involved in the global economy, we Americans will wonder what we were thinking when we isolated ourselves from that trade, and from 22 percent of the world's people. We effectively out ourselves out of an international community. How do you talk about population control and global warming without one-fifth of the world's population. It boggles the mind.

On the human rights front, threatening to terminate MFN, or actually doing so, will have virtually no effect on those people who are imprisoned and persecuted—then what is the advantage to the Chinese people of our pursuing this?

I submit that there is no advantage to doing this to China—or to ourselves, save one: the advantage is raw partisan politics, American style. That is most unfortunate indeed. This bill is being touted as a cure-all for our differences with the hard-line Government leaders of China. If some of my colleagues truly believe that we will influence a small number of top policy makers by conditioning MFN, and will not cause the suffering of tens of millions of Chinese people, they just do not understand China. The people of China will see only one effect; that the United States did something that hurt them. The leaders, whose behavior we are trying to amend, will be unscathed—and probably amused by the lengths we will go in reckless attempts to force changes in their internal policy.

My fine colleague, the majority leader, stated during debate on this issue last year that, "Americans are not hostile to policies that clearly serve important national goals. They are hostile to policies that fly in the face of common sense." The dawning of the free market concept of economics which is driving incredible economic growth—and is spreading American values in southeast China—is good common sense.

That economic growth has very potent and positive political potential to turn the tides toward democracy. The power and influence of the economic development that has sunk a tap root in southeast China continues to be the most effective way to spur long-term positive changes in China.

It is through this development that a growing understanding and appreciation for the outside world is brought to millions of people in China. Chinese leaders cannot enjoy the benefits of trade without accepting all the benefits of information and globalization that are inextricably linked to it.

If we wish to sacrifice our own goals, the precipitous act of conditioning or terminating MFN for China is an excellent way to do so. If we wish to pander to what may be a lack of full understanding of this issue among the American public in order to get reelected, or to hurt the election chances of our President, this may well be an effective way to do it.

I would hope however that we are more thoughtful, more responsible and more statesmanlike. Millions of human beings have a stake in what we are doing here. I urge my colleagues to vote against this effort to condition MFN for China.

The PRESIDING OFFICER. The Senator from Oregon has 1 minute and 39 seconds remaining.

Mr. PACKWOOD. Mr. President, let me ask the chairman about the amendment. There is going to be objection to it right now. I think it might be cleared. I want to note the way we take this; we are going to vote on this tomorrow, we are not going to vote at all today?

Mr. BENTSEN. That is correct.

Mr. PACKWOOD. I do not think there will be objection. I am not in position to say right now. I know it is in the House bill. I suppose we can send it to conference. I just need a little more time to check it.

Mr. BENTSEN. All right, as long as I am not precluded from offering the amendment in the process.

Mr. PACKWOOD. No; as far as I am concerned the Senator is not.

Mr. BENTSEN. 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. BENTSEN. 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. BENTSEN. Mr. President, I ask unanimous consent that we be allowed to lay the consideration of this amendment aside until we have completed our business on the gag rule, which I would assume would take about 90 minutes, and that it then be in order to offer it at that point.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

MFN FOR CHINA

Mr. DOLE. Mr. President, about the only thing we do more around here more often than MFN for China is morning business. And frankly, the China MFN debate has become so repetitive, and the outcome of our deliberations so predictable, that morning business is usually more exciting.

Do not get me wrong. This is serious business, and the stakes are high.

But we have had this debate time and time and time again. The arguments on both sides have always been essentially the same. The vote has always been essentially the same—and will be again today, or whenever we have a recorded vote.

United States policy is well established; it is not going to change; and everybody knows it.

So are we really here because of policy differences on this issue? Or are we here because some people perceives partisan political advantage in bringing it up, again and again? You decide.

But it is serious business. So, for the umpteenth time, let us review what is at stake.

First, the process of reform in China. The issue is not who wants to encourage reform in China and who does not. The issue is whether MFN is the right tool to push for reform in China.

It seems to me the answer is clear: Denying MFN will not move the process of reform forward 1 inch. In fact, terminating MFN means that we will leave isolated and out on that proverbial Limb the very forces in China which are the strongest proponents of reform, the younger, entrepreneurial class concentrated in southern China—where most American commercial activity is also concentrated.

Denying MFN will not hurt the "old men in Beijing," in important part because no other nation on Earth is contemplating trade sanctions of any kind against China. Indeed, our friends in Japan and Australia and Western Europe and every other country that is competing for a bigger share of the Chinese market would react with glee if we start a trade sanctions war with the People's Republic of China. They know the biggest beneficiaries would be their own factories and farms, and the biggest victims would be American exporters.

Second, the fate of Hong Kong and its several million people is also very much at stake. In 1997, when Hong Kong becomes a part of China, it has the potential to inject into the Chinese system a massive and much-needed dose of experienced entrepreneurship. Hong Kong can change China a lot more than China changes Hong Kong.

But Hong Kong can play that positive, catalytic role only if it remains the kind of large, vibrant free market that it is now. Yet Hong Kong, in the next few years, will remain vitally dependent on the strength of the economy of southern China, and on the economic relations between China and the United States, for which it frequently acts as "middle man." Pulling the plug on MFN will also mean pulling the plug

on Hong Kong's economic vitality—and on the positive role it can play in China's future.

As important as these factors are, though, there is one other matter at stake that for the average American far exceeds all others in importance.

Because jobs, hundreds of thousands of American jobs, are at stake.

Exports, billions of dollars of American exports, are at stake.

Imports, billions in low-cost, high-quality goods that are essential to the lives of middle and lower income Americans, are at stake.

That is the heart and soul of this issue.

Let us put the facts on the table. Denying MFN means a trade war with China. A trade war means a drastic drop in exports and the loss of countless jobs. A trade war means no more low-cost, high-quality goods that so many Americans depend on to keep their budgets in balance and their checks from bouncing.

Where we marked up this resolution in the Finance Committee, I noted that many pieces of legislation were termed "jobs bills," but this one could accurately be called a "no jobs" bill. One trade organization has estimated that denying MFN to China would cost us 300,000 jobs in the first year.

Just this year, for example, China signed contracts with the big three automakers to import billions of dollars' worth of American cars—and create some 20,000 jobs. Will China go through with those contracts, or sign future ones, if we terminate MFN? A majority of the Senate may be willing to take that risk, but what about those people—autoworkers, or farmers, or factory workers whose jobs are at stake? Maybe we should at least think about them before we decide whether we risk their livelihood so we can feel good.

Mr. President, none of this is to suggest we do not have very real and serious problems with, and concerns about, some aspect of Chinese policy.

We deplore their human rights abuses, and will—and ought to—use every form of effective leverage and persuasion to foster improvements. But the key word is "effective."

The Chinese do engage in serious trade abuses, denying us fair access to their markets in important areas of international trade. And we ought to—and will—continue to use all the tools available in law and policy to get them to shape up. Our willingness to do that is manifest in the very difficult and contentious so-called 310 talks now under way. Our determination to press as hard as is necessary is manifest in the fact that the Chinese are now operating under a very short-fuse ultimatum to shape up or be faced with retaliatory tariffs that, all else failing, will get the message across: We mean business.

And let me add that I am personally concerned about the Chinese failure to give fair access to American wheat exports, including the exports from my own State of Kansas. Without question, that kind of thoughtless and irresponsible action by the Chinese undermines the support for MFN that does exist in the Senate, and is one reason we have to keep revisiting this issue.

But there are other, effective—and again I underscore that word—effective ways to pressure the Chinese to shape up. And, for the record, I should note that I hope to have a very frank, private discussion with the Chinese Ambassador within the next few days, so he understands our determination and capacity to bring pressure to bear to insure Chinese fairness in treating American exports, including wheat.

Mr. President, in conclusion, I ask unanimous consent to include in the RECORD the text of a letter I have received from President Bush on this issue. Concisely and persuasively, it makes the case to continue MFN for China. I hope all Senators will read the President's words and heed their logic.

Mr. President, the bottom line: Let us do what makes sense for America and for the American people, instead of what plays best in the politically correct media and gives some fleeting partisan advantage to the critics of President Bush.

Let us vote to continue MFN for China, because that makes sense for America.

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

THE WHITE HOUSE,
Washington, August 13, 1992.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: Once again, we find ourselves in agreement on how best to advance our objectives on China. Over the past year, I have worked with Congress to advance our human rights, trade and non-proliferation agenda. The success we have achieved with carefully targeted measures has demonstrated the effectiveness of our current approach.

On the trade front, the Chinese have agreed to establish a model intellectual property rights regime. We are similarly resolved to conclude our market access talks in August—earlier than the statutory deadline—or we will publish a proposed retaliation list. The Chinese are on notice that only an agreement providing for meaningful market access will be sufficient to conclude our 301 investigation and avoid U.S. retaliatory action.

Significant accomplishments have also been achieved in the non-proliferation area. China has acceded to the Nuclear Non-proliferation Treaty and has declared its observance of Missile Control Technology Regime guidelines. These are important steps, but, of course, implementation is the key. I assure you that we are closely monitoring China's compliance; China must live up to its commitments.

In this connection we have been direct with the Chinese about the seriousness of proliferation sanctions under existing U.S. policy and statutes, and about our determination to invoke them if there are Chinese violations. We are equally determined that our policies in the proliferation area, including the implementation of our controls over dual use exports to the PRC, continue to be as effective as possible in advancing China toward our nonproliferation objectives.

To advance our nonproliferation dialogue with China, we will press Beijing to adopt Nuclear Supplier Guidelines and a full-scope safeguards policy as a requirement for all nuclear exports. We have addressed the matter of Chinese observance of the bilateral standard we and the former Soviet Union have adhered to in the Threshold Test Ban Treaty. I have directed Arms Control and Disarmament Director Lehman to begin discussions with the Chinese on this issue.

Like you, I want to see the human rights situation in China improved. I strongly endorse your proposal for the establishment of a bilateral human rights Commission. The Department of State has been tasked with formulating a proposal and presenting it to Beijing on a priority basis. While the bilateral nature of the proposal means we cannot simply create the commission unilaterally, I am confident that the priority I have assigned will demonstrate to the Chinese the seriousness of the initiative.

Although we want to see accelerated action on China's part, our policy is already achieving results in the human rights area. On August 7, we signed an agreement with the Chinese that will prevent Chinese exports of prison labor products to the U.S., including provision of U.S. inspections of facilities in China. With respect to international financial institution lending to China, we have made it clear to the Chinese that we will only support those loans that pertain to basic human needs. On Taiwan, our position is firm that Taiwan's application to the GATT should be resolved favorably; we will not waiver in that commitment. We would be pleased to arrange a briefing for you on Hong Kong. In addition, the administration has recently taken the initiative to expand VOA broadcasts to China and East Asia (described in the enclosure).

Working together, the Administration and Congress constitute a strong force for positive change in China. Your support for our continued commercial engagement with the PRC, advanced by unconditional Most-Favored-Nation status, is a powerful vote for market oriented economic reform in China.

I appreciate your careful consideration of the issues before us and I urge you to support the administration's policy.

Sincerely,

GEORGE BUSH.

TIME TO SUPPORT A NEW CHINA POLICY

Mr. CRANSTON. Mr. President, I rise to lend my full support again this year to H.R. 5318, the United States-China Act of 1992. This well-crafted piece of legislation restores United States leadership in signaling China that irresponsible arms trade, unfair trade practices, and flagrant human rights violations will not be indulged.

This bill does not deny China most-favored-nation trading status. This bill conditions the renewal of special trade privileges upon improvements in China's human rights conditions and trade practices. It also requires China to uphold its obligations under inter-

national agreements to control the spread of weapons of mass destruction.

Should China fail to meet the certification requirements in these areas, all products exported by Chinese state-owned enterprises would be subject to a higher, non-MFN duty. This legislation would not affect China's private enterprises. It therefore cannot be argued that this legislation would hurt those economic reformers inside China that we are trying to encourage.

In short, Mr. President, what this bill asks from China is no more, nor no less, than the type of responsible behavior in human rights, in security, and in trade to be expected from any nation that is a member of the international community.

China's renegade behavior indicates that it does not fear reprisals from the United States nor the international community for its reprehensible actions. Why should China worry? This past year alone, China was rewarded with a visit from Secretary Baker and China's premier was granted a meeting with President Bush.

The velvet glove with which the administration deals with China is particularly disturbing in the area of weapons proliferation. In return for a mere promise to abide by the Missile Technology Control Regime and sign the Nuclear-Non Proliferation Treaty [NPT], the administration lifted sanctions against two Chinese companies implicated in past sales of ballistic missiles and their launchers to Pakistan.

Now, following President Bush's announcement last week of the sale of 150 F-16 aircraft to Taiwan, China has grumbled that it will consider pulling out of its new international arms control commitments.

In March, I asked former Assistant Secretary of State for East Asian and Pacific Affairs, Richard Solomon, whether China had signed any new contracts in violation of MTCR guidelines. Secretary Solomon was unable to testify that China had stopped selling missile technology. "The spigot is being turned off" was his response.

Dangerous weapons, dual use technologies and nuclear-related materials continue to flow from China, threatening stability, not only in East Asia, but in other fragile regions.

China also continues to supply lethal weapons to the Burmese military dictatorship. The Burmese regime continues brutally to violate the rights of its citizens. News reports indicate that China has also assisted Burma in transporting troops battling ethnic groups inside Burma.

In May, China shocked the world by conducting the largest underground nuclear blast in the history of its nuclear program. The size of the explosion, capable of producing large yield nuclear warheads, is ominous. In July, the Senate passed an historic measure aimed at phasing out our nuclear testing program by 1996. France and Russia already have unilateral moratoriums on nuclear tests. China's recent behavior hinders the world community's efforts to secure a new era, free from the shadow of nuclear weapons.

Mr. President, it is clear that firmer measures are needed to convey United States concerns about China's ruthless weapons trade. We cannot rely on China's pledges to curb arms sales because China has repeatedly broken such promises in the past. Nor can we simply monitor China's compliance of its arms control commitments. We must prevent China from peddling lethal weapons to unreliable nations.

We can only accomplish this goal by proving to China that it has something to lose if it continues its dangerous trade. Passing this legislation would send that signal.

Mr. President, China works hard to maintain preferential tariff treatment. In fact, according to the South China Morning Post, China's premier, Li Peng, is in charge of Beijing's efforts to retain China's MFN trade status. Every year, when the Chinese want MFN, they announce special trade missions and announce grain purchases. Every year, after they have gotten what they want, the trade missions end, the purchases stop. The South China Morning Post reports that diplomats in Beijing have said that this year the Chinese have targeted their purchases to score maximum political effects in the United States.

Meanwhile, China's trade surplus with the United States continues to grow, stretching to $12.7 billion in 1991. China has acquired this surplus through unfair trade practices. China continues to block United States access to its market through intractable barriers, as described by the State Department's 1991 county report on China's trade practices.

China has also illegally transshipped textile and apparel products to the United States in violation of established quotas. According to the Department of Commerce, China's 1991 Customs Services charges for these violations amount to $247 million for more than 2 million dozen products illegally transshipped.

The legislation before us requires significant progress by China in providing United States exporters fair excess to Chinese markets and increasing the purchase of United States goods and services. If China expects to continue to enjoy preferential tariff treatment by the United States, then it must be prepared to implement a fair trade policy.

Mr. President, this bill also promotes human rights protection, an area where China continues to fail miserably. China has yet to account fully for all those sentenced, arrested, or detained for their participation in peaceful prodemocracy demonstrations in 1989.

Asia Watch has recently documented the existence of more than 200 prodemocracy activists imprisoned in the province of Hunan alone. Only a handful of these individuals' names were on a list that the State Department presented to the Chinese Government in 1991, urging their release. There is no telling how many other counterrevolutionaries are being held today in China for the peaceful advocacy of democracy.

In July, Bao Tong, the architect of earlier political and economic reform in China, was sentenced to 7 years in prison for his alleged role in the prodemocracy movement in 1989. Mr. Bao's trial was a travesty of justice. His lawyers were given little time to prepare his defense and his family was prohibited from attending the trial. He was not granted any of the rights guaranteed to him under international law.

China has begun a campaign to bring home Chinese students who have been living in exile since 1989. The Chinese leadership called for the students to return without fear of retribution for staying abroad or for any role they may have played in events surrounding the Tiananmen Square protests. Shen Tong, a Boston University student, heard the call and chose to return to China. He was arrested without charge several weeks after arriving in the country. His whereabouts are still unknown to his family and associates.

China's systematic pattern of violating fundamental human rights will continue as long as there is no pressure to reform. A human rights dialog, such as the administration advocates, can only accomplish results on a case by case basis. Without economic pressure thousands of Chinese citizens will continue to suffer ruthless persecution and be denied their basic rights.

Mr. President, it is clear that a new approach to United States-China relations is long overdue. We must do now what we should have done in 1989. We must show the Chinese leadership that their egregious behavior will not be tolerated. China must be made to understand that there is a price to be paid for being a member of the international community.

I urge my colleagues to join today in correcting a wayward foreign policy by supporting this important legislation.

Mr. GORTON. Mr. President, if this bill to condition our most-favored-nation trade status with the People's Republic of China were brought before the Senate for a rollcall vote, I would oppose it. It is a bill which should have been considered months ago, and one whose consideration has been delayed solely for the purpose of embarrassing the President with a veto override 7 weeks before the Presidential election.

I remain gravely concerned about our relationship with the PRC. The United

States trade deficit with the PRC has grown substantially in each of the past several years, and it appears that our efforts to improve the PRC's human rights practices have met little success. I have voted in the past to use reasonable conditions to change the PRC's practices. Today I would withhold my vote.

We are not considering this bill in a genuine effort to fix that trade deficit or to improve the PRC's human rights. Instead, the Senate leadership has brought forward the bill, one of the few in which the President faces the possibility of having his veto overridden, at a time when it will be most politically damaging to the President.

This issue deserves serious debate and nonpartisan consideration. That debate and consideration will not take place now and I will not let my vote be used for the sole purpose of embarrassing the President.

TIME TO CONDITION TRADE WITH CHINA

Mr. PELL. Mr. President, I rise in support of H.R. 5319, regarding most-favored nation status to products of the People's Republic of China.

I was an original cosponsor of this bill when first introduced by the majority leader. I continue to believe that this measure is a welcome response to the administration's annual folly of extending to China nondiscriminatory trade treatment without any conditions.

This measure is also a reasoned response. Despite efforts by its opponents to paint it in catastrophic colors, S. 2808 does not end trade with China. It only asks that the President certify that China has begun doing what it has already pledged that it will do in human rights, trade, and the proliferation of weapons of mass destruction.

Chinese Premier Li Peng pledged last January before the U.N. China's commitment to human rights including "not only civil and political rights, but also economic, social and cultural rights."

The Chinese also announced that they would halt the export of slave labor products to the United States, open their markets to American goods, and adhere to international agreements protecting copyrights and trademarks.

On weapons proliferation, the Chinese adhered to the Missile Technology Control Regime and ratified the Nuclear Nonproliferation Treaty.

This bill holds China to its word.

Some could argue that China cannot be held to these standards despite its pledge. There is certainly reason to be concerned about China's intentions. On July 28, I chaired a Foreign Relations Committee hearing on Tibet in which we received extensive testimony about the Chinese treatment of Tibetans. Despite Chinese disclaimers, Tibetans are still being abused and are still valiantly resisting Chinese occupation.

But should we not strive to hold China to its commitments even if its bad faith has been demonstrated? Is this not what we are attempting to do today, at this minute, in Iraq?

These are not onerous commitments. We are not asking China to do what others are not asked. These are international commitments to which most states have acceded. They are the brick and mortar of the world order.

If we are to have a new world order, China must be a part of it, not apart from it. They have agreed in principle to the conditions of the new world order. Now they must be held to these principles.

This bill provides the President with the stick he needs to complement the carrot of most-favored-nation treatment that he has given to the Chinese. He needs the leverage of both if he is to be successful in the policy objective both the Congress and the President desire: China's responsible participation in ensuring world order and development.

I urge my colleagues to vote in favor of this important measure.

(At the request of Mr. MITCHELL, the following statement was ordered to be printed in the RECORD:)

• Mr. KERRY. Mr. President, when legislation to place conditions on MFN for China first came up for Senate consideration during the summer of 1991, it was not an automatic decision for me. I had serious reservations about setting up an equation that would lead inevitably and obviously to a cutoff in normal trade relations with China.

There is no question, as opponents of this kind of legislation have pointed out, that we derive some significant benefits from MFN. Americans have invested a great deal in China, mostly in the south where economic reforms and a free market system have begun to take hold. We export 5 billion dollar's worth of goods to China and we do not want to jeopardize that. Everything we can do to expose China to democratic values and to encourage economic change is important. And there is always an element of risk that sanctions—especially unilateral sanctions—will backfire; that they will trigger a xenophobic reaction and make concessions on key issues more, rather than less, likely to occur.

So this is not a simple or one-sided issue. It is a judgment call. The judgment is whether, by attaching strong but reasonable conditions to MFN, we will in the long run help those seeking democratic change and economic reform in China to succeed; whether we will discourage China's leaders from arms sales and nuclear proliferation policies that are reckless and ill-advised; and whether we will contribute to respect for human and labor rights.

None of us can guarantee that this legislation will have those positive results. But it is very difficult to see how doing nothing would contribute to those goals. The fact is that when China has moved in the right direction—by releasing dissidents, for example, or promising to restrict arms sales—it has been in response to international pressure, not to international benign neglect.

It is also true that MFN status gives us some real leverage with China, because the benefits that China receives from it are so substantial. In 1989, the year of the Tiananmen Square massacre, China had a $6 billion balance of trade advantage with the United States. This year, that number is expected to reach an incredible $20 billion. This gives China, it seems to me, 20 billion reasons to take the conditions in this bill seriously; and it gives us 20 billion reasons to think that the strategy that lies behind this bill may work.

It is important for those historically sympathetic to the administration's view on this issue to understand that this bill takes a less demanding approach to China than some of the proposals put forward last year. There is no huge laundry list of demands. There are no conditions that are unreasonable or that we know in advance the Government of China simply will not meet. This is not an extreme or punitive measure. On the contrary, it sets out conditions for MFN that are reasonable and attainable and that are designed not to sever relations with China, but rather to make better relations possible.

In deciding how to vote on this bill, I would request that my colleagues ask themselves a few basic questions.

Should we or should we not be seeking a full accounting of those detained, accused or sentenced in connection with the events at Tiananmen Square? Should we or should we not be asking China to meet its obligations under the Universal Declaration of Human Rights both within its own borders and in Tibet? Should we or should we not be preventing the importation of goods made by prison labor? Should we or should we not insist that China meet its commitments to prevent the further proliferation of nuclear, chemical and advanced conventional weapons?

Finally, and most immediately and personally, should we or should we not be demanding the release of Shen Tong, Qian Li Yun and Qi Da Feng, the three democratic activists arrested on September 1 for the sole crime of supporting democracy?

It seems to me Mr. President, that the answers to these questions are obvious and that American interests and ideals are clearly served by this legislation.

I hope Members will also note that the bill had been changed to address the administration's most compelling past criticism of this type of legislation. In vetoing last year's bill, the

President said that it would "severely handicap United States business in China, penalizing American workers and eliminating jobs. Conditional MFN status," he said severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong, and strengthen opposition to democracy and economic reform."

This year, the bill has been modified to make the revocation of MFN status applicable only to the products of state-owned enterprises. Thus, the products of private Chinese companies and qualified joint ventures involving American and other western firms would not be affected.

I note, as well, that the bill does not nullify or in any other way affect the President's designation or continued MFN status for China that he made on June 3, 1992. The conditions will not apply until the next required designation in June of next year. This allows China more than 9 months from this debate to meet the very reasonable standards that are set out in this bill.

Now I understand the President's basic position, which is that we will have more leverage with the Chinese by talking to them and trading with them than we would have by reducing trade and running the risk that they will isolate themselves further from the international community. The President has not taken this position with respect to other nations against whom we have imposed sanctions; he has not taken it with respect to Cuba or Vietnam; he did not take it 10 years ago when we imposed sanctions against Nicaragua; he does not take it with respect to Libya; but he has taken it with respect to the leaders of China.

His policy is to sit and wait, to avoid giving offense, to attach great importance to small signs of progress and to hope for the best. As a result, we have lifted virtually every sanction imposed after Tiananmen Square.

There was a time when we were going to suspend high level contacts with China, but the fact is we never did. We suspended sales of high technology equipment, but then lifted those restrictions. We stopped supporting international loans to China, but then resumed. And what do we have to show for this policy of conciliation? The administration asserts there has been progress. But the fact is that there has been no progress on human rights; the Chinese recently conducted a nuclear test that far exceeded normal size limits; there is evidence of continued exports of products made by prison labor; there is continued repression in Tibet; and there are continued sales of sophisticated weapons and technology to outlaw states.

The fundamental question we face is whether to continue business as usual with China if China continues to disregard the basic norms that define responsibility international behavior in the post-cold war era. These standards do not, in my view, reflect an attempt to impose our interests or values on the Chinese—they reflect, instead, a sober assessment of what it will take to make progress towards a more stable and humane world. Consider that we are talking about a regime that is so sensitive to criticism that it banned all unauthorized wreath-laying, memorials, or demonstrations of any kind during the third anniversary of the Tiananmen Square massacre last June. That kind of regime is simply not prepared to do business in a world where, we hope, respect for human rights will become an essential precondition to international standing and leadership. In that sense, this legislation is not designed to confront China, but rather to invite China to join with us in pursuit of shared economic and political goals.

It is, of course, possible that this generation of China's leaders will respond to this bill by choosing badly; we cannot control that. But we can—and in this bill—we do encourage them to choose wisely. We encourage them to join us in making the world safer, freer, more just and more secure.

Some may call that naive.

I think it is leadership.

And I urge my colleagues to join in exercising that leadership by approving this reasonable and constructive and important legislation today.●

RELIGIOUS PERSECUTION IN RED CHINA

Mr. HELMS. Mr. President, church sources in Hong Kong and Washington, have reported that on September 7 the Communist Chinese police raided a Protestant church service in central China. At least 163 people were arrested, including one American citizen of Chinese origin. Church sources report "many have been severely beaten during interrogation."

Upon receiving this report, the State Department was immediately contacted and efforts are now underway to obtain the release of the American citizen. The Chinese police deny that they are holding an American citizen. The State Department has advised me that an officer from the U.S. Embassy is being sent to investigate. This morning, the State Department informed me that the U.S. citizen is still being held in a Chinese guest house, better known as a detention center, and that the United States Embassy has continued to be denied appropriate consular access.

Mr. President, we should not be surprised by these reports. Being persecuted for one's faith is a penalty all citizens of mainland China face. Protestant believers are not alone. Catholic Bishop Fan died in Communist Chinese police custody last year and Buddhists in Tibet are regularly arrested and tortured.

Mr. President, S. 2808, the bill before us, is not the legislation I would prefer. Given the use of foreign exchange by the Communist Chinese to purchase war materials from the now defunct Soviet Union, I believe we should shut them off completely. However, we do not have that option before us.

But, S. 2808 does put limitations on Communist Chinese Government-owned companies if the government's human rights practices, including religious persecution do not improve, and any effort in this case is better than no effort at all.

IN SUPPORT OF RENEWAL OF MFN STATUS FOR CHINA WITHOUT CONDITIONS

Mr. CRAIG. Mr. President, the Senate's debate and vote on S. 2808 will greatly affect the future of relations between the United States and the People's Republic of China [PRC]. S. 2808 would apply a number of conditions to the renewal of most-favored-nation [MFN] trading status for the People's Republic of China.

This debate originally centered around the improvement of human rights in China as a reaction to the Tiananmen Square tragedy of 3 years ago. Today, the debate surrounding renewal of MFN for China has turned into the Pill designed to cure all of China's ills.

We all share the desire to end the human rights abuses and resolve the problems that plague our relations with China. The question we face today is not one of policy goals, but means. We must ask ourselves, Mr. President, what can be done to resolve these problems? Is the best strategy to place conditions on most-favored-nation trade status? I would argue "no."

Mr. President, MFN is a trade relationship that mutually benefits the United States and the corresponding country through lower tariffs and trade barriers. It is a trade relationship that we enjoy with all but a handful of nations: Afghanistan, Cambodia, Cuba, Laos, North Korea, Romania, the Republics of the former Soviet Union—(except Armenia, Russia, and the Baltics)—and Vietman. Libya and Iraq are both denied through embargoes placed on trade with those countries. The list is small, Mr. President. If one looks at our relations with the countries on this list, one can see that applying conditions or revoking MFN for China will certainly not enhance our ability to influence the Government in Beijing.

The human rights situation in China has improved immensely since MFN was first granted in 1980. Part of the improvement has been through the direct contact between United States private industry and agriculture, and their counterparts in China. One of the most effective means we have of causing change in China is through our economic ties with that country, and through continued dialog. If we look at those provinces with the best human rights records we find that they are also the provinces that are most heavily involved in trade with the United States.

Mr. President, United States with China is not merely the trade of economic goods, it is also the trade of ideas—ideas about democracy, capitalism, and freedom. Revoking MFN, or applying conditions to MFN will terminate that grassroots influence in China.

Again, Mr. President, what are we trying to achieve here, and how can we best meet our goal? We are trying to improve human rights in China. Revoking MFN will not resolve that problem. Revoking MFN to improve human rights in a Communist country has not worked in the past, and there is no indication that it will work now. The suspension of MFN for Romania only served to damage our relations with that country, having no effect on the human rights situation there.

Some have said that the United States should take the lead in this problem. If the United States applies conditions, our trading partners will follow suit. Taking unilateral actions such as this legislation would impose, will result in providing a greater market share in China for our trading partners. The increase of Japanese and European activities in China does not support the theory that our trading partners are waiting for the United States to take action. The United States is now alone among Western countries in continuing to maintain its original Tiananmen sanctions against China. No other country has considered withdrawing MFN trade status in response to concerns about Chinese policies. If we take these actions Mr. President, we take them alone, and we put our own producers and manufacturers at a gross disadvantage. The products we sell to China are easily provided by other producers, and given the competition for markets, the void we create in China will quickly be filled by one of our trading partners.

China is an important market for United States agriculture products. For example, China is the United States' largest cash customer for wheat—loss of this market would be devastating to United States farmers. Last year, U.S. farmers sold over $1.9 billion in U.S. agricultural goods. Loss of this market would affect my farmers, as well as the economy of Idaho. The United States also exports hundreds of millions of dollars worth of phosphates to China, a significant portion of which comes from Idaho. Even though the United States has a sizable trade deficit with China, Mr. President, cutting off current trade will not improve our overall trade deficit. Rather, it will aggravate the problem.

Mr. President, there are other options at hand that can be used to resolve these issues—options that will help work to resolve some of the problems that have been highlighted by proponents of conditions. Engagement, rather than confrontation, will lead us toward our goals. The administration has made substantial progress on those areas of concern in our relationship with the People's Republic of China.

Human rights continues to be a focus of our foreign policy. There are sanctions currently in place, targeted at specific problems. Again, let me emphasize that the United States is the only nation today that has not lifted sanctions and returned to pre-Tiananmen relations with China. The following sanctions/actions are currently in place: suspension of military cooperation programs; an embargo on sales to the Chinese police and military; rejection of the easing of cocom controls on China; suspension of trade support programs; and lack of support for loans to China, except for projects directed to meet human needs.

In addition to these actions, there are negotiations on other problem areas. The administration has been committed to an ongoing dialog with the Chinese, addressing human rights problems—this would of course end if conditions are applied to MFN. Progress has occurred, but a great deal remains to be done. Through the commitment of the administration to continue these efforts, our Government will have far greater impact than by cutting off relations with China.

Our current policy is meeting with some success. A great deal remains to be done, but as was pointed out by Under Secretary Arnold Kanter in his testimony before the Senate Finance Committee, a great deal has also been accomplished:

> We have made progress in our dialogue with the Chinese on human rights—though by no means as much as we would wish. We have prompted China to focus on human rights concerns and engage in exchanges of delegations with other countries. We continue to raise with the Chinese the issue of releasing political prisoners. The Chinese confirmed to Secretary Baker the release of 133 prisoners on our list of prisoners of human rights interest as of November 1991. Since then, China has announced the release of additional political prisoners. One dissident informed our Embassy, for example, that 70-80 percent of those detained in Beijing after Tiananmen have now been released.

This is not the record of a failed policy Mr. President. Our efforts should continue to yield positive results.

There have also been successes in other problem areas of our relations with the People's Republic of China. For example, under trade, the administration was able to successfully negotiate an agreement last January on intellectual property rights, improving the protection of U.S. patents and copyrights. In the area of military concerns, China has agreed to observe missile technology control regime guidelines and parameters. They have also conceded to the Nuclear Nonproliferation Treaty. Again, the work is not done, but gains have been made under our policy of engagement with the Chinese.

Mr. President, applying conditions to MFN will not resolve the problems that have been addressed on this floor. In fact, applying conditions to MFN would amount to a public challenge by our Government that would be impossible for the Chinese leadership to meet. The Chinese Government would never succumb to this sort of unilateral pressure because it would imply a weakness on their part. Therefore attaching conditions will simply serve as a notice of termination of relations between the United States and China.

Mr. President, human rights are not going to improve if we apply conditions to MFN. Our trade deficit is not going to lessen if we apply conditions to MFN. Chinese arms sales are not going to end if we apply conditions to MFN. Creative thinking and targeted actions such as those the administration continues to pursue will work toward a resolution of the problems that exist in the relations between the United States and China. I hope my colleagues will join me in voting against S. 2808.

CONDITIONING RENEWAL OF CHINA'S MFN

Mr. ADAMS. Mr. President, I rise today to support the conditioning of most-favored-nation trading status for the People's Republic of China. I do not make this decision lightly, for my State of Washington stands to lose more than virtually any other State in the country if the Chinese should choose not to meet the trade, nonproliferation, and human rights criteria that we are discussing today. If the Chinese lose their MFN status and if they retaliate, Washington State exports will suffer greatly.

Support for the Senate Finance Committee bill represents a calculated and a principled risk. I for one do not believe that the Chinese will risk losing our great domestic market when the conditions we are talking about are so easy to meet. For the most part, meeting the conditions involves nothing more than complying with promises already made and upholding agreements already signed. Indeed, full compliance is not required. Only significant progress.

We went through this debate last year, as well as earlier this year. And we came close to overriding the President's veto. There has been some nominal progress on the trade and nonproliferation fronts: China has signed agreements to protect United States intellectual property rights and to prohibit prison-labor exports. It has signed the Nuclear Nonproliferation Treaty and has pledged to follow the Missile Technology Control Regime. But these are mere promises at this point. This legislation would help ensure Chinese compliance. Moreover, in terms of human rights, we have seen little improvement. In July, I joined with several colleagues in writing a letter to Chinese Premier Li Peng, protesting the strict sentence imposed on Bao

Tong, a leading Government reformer imprisoned after the Tiananmen Square protest. The promises made to Secretary Baker last November with respect to granting exit visas to Chinese dissidents have not been kept. And most recently, Chinese authorities arrested Shen Tong, a student leader in the 1989 democracy movement, who had returned to China to continue his prodemocarcy efforts after 3 years of exile in the United States. In the same week as his arrest, American newspapers published reports of routine torture of political prisoners in Chinese prisons.

I do not want to see the United States-China trade relationship harmed. But I also do not want to stand silent on Chinese abuses in areas of significant concern to the United States. Conditioning MFN is the best tool that we have to influence Chinese policy. And I believe that the Chinese, after weighing the overall importance of the United States-China relationship, will take those steps necessary to maintain MFN and to shore up its position as a cooperative member of the international community.

Mr. HOLLINGS. Mr. President, I rise in strong support of H.R. 5318, and I want to commend the majority leader for his consistent attention to Chinese human rights abuses. This legislation conditions MFN extension to China on achievement of essential human rights, trade, and proliferation objectives. The President should require real and substantial compliance with these conditions before granting any trade benefits to China. We have tried President Bush's approach of granting concessions the last 3 years, and it has not worked.

Many speakers today have outlined the crimes of the Chinese Government in its treatment of Chinese people. I need not repeat the horror stories we have heard described on the floor many times, but I must note the thousands of people shot, jailed, and disappeared, since Tiananmen Square. In addition, why would anyone wish to reward a regime that is capable of exterminating one-fifth of the population of Tibet, perhaps 1 million or more people? I do not understand.

I must call to the Senate's attention the serious charges that have been made regarding China's use of prison labor. Business Week, the Washington Post, and "60 Minutes" have laid out the case. Harry Wu, a former Chinese political prisoner, has testified to the Chinese Government's exploitation of its prisoners. Senator HELMS, joined by me and others, requested that the Customs Service investigate the prison labor allegations in June 1990. In the last year, the Customs Service has begun to enforce U.S. law on prison-labor goods imported into this country. There have been some indictments and I expect more to come.

H.R. 5318 addresses our bilateral trade deficit as well. China had a $12.7 billion trade surplus last year, which is projected by the CIA to increase to over $15 billion this year. China's enormous trade deficit means millions of United States citizens are robbed of their jobs in the United States. We can not allow the Chinese to build up these tidy export profits, while they refuse United States exporters access to their markets. Unconditional MFN extension hurts Americans. It is time that we change this policy.

Moreover, the Chinese defraud the United States by evading duties and bypassing import quotas through transshipments. Over the past year alone, Customs levied nearly a quarter of a billion dollars in penalties against China for illegal shipments. Some officials of the United States Government have estimated that transshipment of Chinese textiles is as much as $2 billion over their legally allowed $3.5 billion quota. I hand it to Customs Commissioner Hallett—she has even caught a Chinese Government official. So, we have George Bush's Justice Department indicting the Chinese Government, while the State Department pushes favorable trade treatment.

In an editorial, the State paper in Columbia, South Carolina, said:

> The potential of the Chinese market is so enormous it cannot be cast aside lightly. But neither should we prostitute ourselves trying to stay on the good side of Beijing or toss aside our substantial concerns about Chinese conduct, as Mr. Bush seems willing to do. MFN status should have a price. After all, the American market is vast, too, and China should appreciate the tidy profits it is making here enough to bend a little.

I agree and that is why I am supporting H.R. 5318.

Mr. SEYMOUR. Mr. President, the Senate once again considers a measure that attaches conditions to the renewal of most-favored-nation trading status for the People's Republic of China.

I strongly believe that this approach will cripple the causes of economic and political reform in China and I will therefore oppose the pending resolution once again this year as I did last year.

To endanger or deny MFN status to this society will deny its most productive, market-oriented, and democratic forces from moving China out from under the oppressive shadow of communism. It will achieve none of the results that its proponents seek, and punish all of the people that they hope to reward.

Without a doubt, the actions of the Chinese Communist leadership in recent years have deeply troubled me. The Tiananmen Square massacre of 1989 led to brutal murders, persecutions, and imprisonments. Our horror at this tragedy led us to expose many other unknown sins of the Beijing government. They use forced labor to make many of the agricultural products that China exports to the West. They sell ballistic missile launchers and warheads to gangster nations such as North Korea, Syria, and Libya. They continue to suppress freedom of thought even though they masquerade as the protectors of freedom for the working class.

But none of these sins came to the surface just 2 years ago. China's biggest sin is communism—with all of its ugly deceits and twisted concepts of collective human life. And the Government of China, Mr. President, has been committing this sin for 43 years.

The People's Republic appeared on the original 1951 list of countries to which the United States refused to extend normal trade treatment. Indeed, the Trade Agreements Extension Act of that year prohibited all Communist States except Yugoslavia from receiving MFN status.

What happened in China between 1951 and 1980, when this country did not belong to the MFN club? We saw Mao consolidate his power, purge his opponents, fill his prisons, and crush the Tibetans.

Between 1966 and 1976, we saw Mao launch his cultural revolution, one of the most murderous and socially destructive campaigns ever conducted by a leader in this century.

In 1978 and 1979, when China still did not have MFN status, we saw a post-Mao leadership slowly reassessing the disasters of communism and introducing profit incentives to the agricultural and manufacturing sectors.

The point, Mr. President, is that in the case of China, the MFN tool has very little effect on the political mercies of an aging leadership. Without this carrot, they murdered millions and buried the legacy of an ancient and glorious society. With this carrot, they still sent the tanks to Tienanmen Square.

I am not suggesting that we take no action to reduce the Communist government's ability to oppress its own people. On the contrary, I am suggesting that we take every action to build economic institutions and political movements in China to divorce the citizens from their dependence on, and their fear of, the State.

MFN status for China has clearly contributed to this goal. It has encouraged entreprenuers in the special economic zones dotting the Cantonese coast to discover new export markets and learn that prosperity is not an exclusive gift from the Government.

It has allowed young farmers in this overwhelmingly rural land—harvesting bumper crops on State-run collectives—to migrate to urban communities where manufacturing jobs and democratic ideas are more common. Indeed, between 1980 and today, the industrial output from Communist-controlled factories dropped from 80 percent to 54 percent.

It has also opened the doors of our cities and universities to thousands of

students, tourists, and businessmen who have come to learn how and why American society works.

These people and forces, Mr. President, represent the future of democracy and capitalism in China, and the continued availability of MFN treatment strengthens them and weakens their rulers.

I should also note that important segments of our own economy have benefitted from the opening to China. United States exports to the People's Republic totaled approximately $5 billion last year, sustaining more than 100,000 jobs in this country.

Products leading the way to China included commercial aircraft, wheat, transportation equipment, and electronics. For domestic aerospace, agricultural, and high technology firms strapped by recession at home and subsidized industries abroad, emerging markets such as those in China will become more important to their ability to compete.

From the State of California alone, nearly 550 million dollars' worth of finished goods or production components were marketed in the People's Republic of China. Aircraft manufacturers and machine tool firms had the largest share of this amount.

In addition, between last year and this one, California textile exports to China grew by 340 percent and agricultural exports from the State increased by 73 percent.

But we are left with the question, Mr. President, of what obligations the United States has to punish the Chinese Government for its sins of repression, unfair trading practices, and ballistic missile deals with dictators.

On each of these accounts, the administration has chosen the right penalties for the right crimes.

After the Tiananmen tragedy, the Justice Department took steps to protect the Chinese students living in this country by extending temporary asylum to them. We also stopped supporting multilateral development bank loans to the People's Republic of China, suspended grants from the State Department's trade and development program, and chased all overseas private investment corporation activities.

To address our growing trade deficit with China, the President recently designated the People's Republic as a priority country under the 1988 Trade Act. This classification allows the United States to directly retaliate against unfair importation barriers that a foreign government imposes.

To bring a halt to China's renegade arms peddling, the Defense Department terminated our military relationship with the country, denied all import licenses to Beijing's police organizations, and blocked international talks on relaxing the rules controlling what high-technology products the Chinese can obtain.

These measures, Mr. President, punish the only criminals that I know of in China who cannot be rehibilitated—the Communist leaders. MFN status harms them in a subtle but profound way by slowly building a wall between their interests and those of their citizens. On one side of that wall, the discriminating consumer, the Shanghai trader, and the enterprising farmer will thrive. On the other side, the political leadership, marching to Mao's tune, will rot.

I am surprised that I have heard little from my colleagues about this process of making a penalty suit the crime when we discuss the MFN issue. For years since the original 1951 law and its famous amendment in 1974, Presidents and legislative leaders from both parties have allowed some of the most repulsive regimes in the world to escape the punishment of MFN denial.

Where were we on Iraq before the Persian Gulf conflict?

Where have we been on Yugoslavia, Libya, Syria, Zaire, Uganda, Burma, Ethiopia, or the Sudan?

We have not taken away most-favored-nation trading privileges from any of these murderous regimes of either the past or the present.

And in June 1987, the Senate got around to approving the Armstrong resolution repealing Romania's MFN status for 6 months. But many of my colleagues who will vote against the President on China, including the distinguished majority leader, voted 5 years ago against a 6-month suspension of the same treatment for a regime that equaled or exceeded the Chinese Government's contempt for the rights of its citizens.

Because of our own past refusals to link MFN status with the human rights performance of so many tyrants across the globe, we lack the evidence to claim that this linkage will change the hearts of the Chinese rulers.

And at some point, their hearts will stop beating. But even their persecutions, labor camps, and tanks have not yet cut off the lifeblood to the hearts of democracy and enterprise in the People's Republic of China. It should therefore come as no surprise to any of us that one of my visits to Orange County last year, I was presented with a petition signed by dozens of Chinese students studying in southern California asking the United States not to cut off our own lifeline to their future back home.

Let us look to this future as we debate MFN status for China. Its denial would hurt the wrong people at the wrong time in their nation's history.

Thank you, Mr. President.

Mr. DECONCINI. Mr. President, I rise today to once again voice my strong opposition with the Bush administration's decision to unconditionally extend most-favored-nation status to China for another year, and to express my support for the bill introduced by the distinguished majority leader, Senator MITCHELL.

There are several areas of contention with the Chinese Government that need to be addressed and corrected before I believe MFN should be granted to China. Clearly, the most dangerous issue is China's lack of compliance with the Missile Technology Control Regime and the Nuclear Nonproliferation Treaty. While China has pledged to respect the MTCR, it has yet to put this assurance in writing. Also, the Chinese Government's actions speak louder and more clearly than its words. According to unclassified information supplied by public sources, China has reportedly supplied Pakistan with nuclear weapons designs, nuclear-capable missiles, and enough enriched plutonium to complete two nuclear bombs. Mr. President, as you well know, Pakistan is a country with which we have terminated foreign and economic assistance precisely because of its blatant attempts to build a nuclear weapons program. Now it appears China has given these weapons of mass destruction to a feral nation in an extremely volatile region.

In addition to Pakistan, China sold at least 30 Silkworm antiship missiles to Iraq prior to the Persian Gulf war and helped develop Iraq's nuclear weapons program. Additionally, China has supplied sophisticated weapons, technology, and solid rocket missile fuel to Syria, and delivered arms to Libya after the United Nations placed an embargo against that country. I do not believe such irresponsible international actions are deserving of preferential trade status.

I am also concerned about China's continued trade imbalance with the United States. The United States trade deficit with China has continued to rise steadily, increasing from $12.7 billion in 1991 to $20 billion last year—an increase of 63 percent in 1 year. China is now the United States second largest deficit trading partner after Japan. Much of this deficit has occurred because of product dumping, currency devaluation, and exporting products made by prison labor. President Bush is asking to extend favorable trading status to China knowing full well the Chinese Government is unwilling to compete on a level playing field. This skewed field is costing the United States thousands of jobs and billions of dollars annually.

The most difficult obstacle for China to hurdle to win MFN status from this Senator is its continued suppression of human rights and individual freedoms. The Government of China continues to point to its limited improvements in this area as justification for receiving MFN. However, in yet another instance of actions speaking louder than words, on the third anniversary of the Tiananmen Square massacre a lone demonstrator in the square—the only

person with the courage to defy Government warnings of harsh consequences—protested the events of that fateful day in 1989. As a result, the demonstrator was severely beaten and arrested for nothing more that exercising the most basic right of peaceful free speech. The abject fear of official reprisal is evidence of continued tyranny, not an improvement in the exercise of personal freedoms.

This is but one of many reports of human rights abuses which I continually read in newspapers and journals. In fact, only this morning the Christian Solidarity International reported on intensified crackdowns on unsanctioned religious meetings, which have been determined to be counterrevolutionary activities by the Chinese Government. The Chinese secret police force, known as the Public Security Bureau [PSB], responding to innocuous prayer services with brutality and immediate imprisonment. I was appalled to learn of a PSB communique which read: "Bring in one live preacher and receive 300 renminbis—$60; bring in one dead preacher and receive 400 renminbis—$90."

Mr. President, recently a member of my staff traveled to China to present Government officials with a list of individuals who have been imprisoned without trial, appeal, or chance for release, simply for espousing their faith in Catholic beliefs. The respectful presentation of the list fell on deaf ears. It is becoming China's standard reply for the United States to mind its own business, that these cases are internal matters which have nothing to do with United States-Chinese relations. I strongly disagree. On August 17, 1992, I wrote to Zhu Qizhen, Ambassador for the People's Republic of China, to underscore my continued deep concern for the many Catholic priests still languishing in Chinese prisons merely for expressing their religious beliefs. I ask that this letter be printed in the RECORD at the conclusion of my remarks.

Mr. President, the essence of our foreign policy has historically and correctly been the promotion of democracy and the preservation of individual liberties. The Bush administration asserts that its policy of engaging the Chinese Government through continued favorable relations, including the extension of MFN, while merely paying lipservice to the issue of China's blatant disregard for human rights, will positively influence the Chinese Government to institute democratic reforms. The events on the third anniversary of the Tiananmen Square carnage and the continued imprisonment of Catholics, along with many others, demonstrate that the only consequence of China's brutal repression of human rights is that the Beijing government gets wealthy through a favorable, imbalanced trade relationship with the United States while its people continue to suffer. Obviously, this gives China no incentive to change. I urge my colleagues to support the bill before us today.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, August 17, 1992.

His Excellency ZHU QIZHEN,
Ambassador, People's Republic of China, Washington, DC.

DEAR MR. AMBASSADOR: I learned last week that the government of China released an elderly Catholic Cleric, Joseph Li Side, from prison. I want you to know that I have taken note of this action and I am most appreciative.

However, notwithstanding this positive development, I continue to have concerns about the other imprisoned Catholics. As you may know, a member of my staff, David Steele, recently visited your country as part of a Congressional staff delegation. While there, he attempted to raise the issue of the imprisoned Catholics on my behalf with the officials with whom he met. He was told that the matter of the imprisoned Catholics had nothing to do with Sino/U.S. relations. I strongly disagree with this assertion.

As you know, I have strongly opposed President Bush's continued unconditional extension of Most-Favored—Nation (MFN) trade status to China in the wake of the Tiananmen Square massacre. Like many of my colleagues, while I am deeply troubled by your country's policies in the areas of trade and weapons proliferation, I am most concerned about China's human rights record.

I continue to be disturbed and deeply dismayed by reports that China has jailed thousands of it citizens for the exercise of their basic human rights. What has touched me most, however, are allegations that scores of Catholic bishops and priests are languishing in prisons and labor camps because of their faith.

I hope that Mr. Li Side's release is an indication that your government is reversing the policies which resulted in his imprisonment and that all of the Catholics who have been incarcerated for exercising their religious beliefs—as well as other detained for peacefully expressing their views—will soon be granted their freedom.

Thank you for your attention to this matter.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

Mr. DODD. Mr. President, I rise in strong support of the pending measure. I want to commend the distinguished majority leader, Senator MITCHELL, for his perseverance in this very important effort. I also want to commend the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, for his work on this legislation.

Mr. President, the world is undergoing dramatic change. In the former Soviet Union, communism has crumbled from within and 15 independent States have been freed. In Eastern Europe, a long-repressed people have emerged from behind the Iron Curtain and taken bold steps toward democratic plurality and free-market reform.

Over the past few decades, China too has changed. In a country once known for its tight central grip on the levers of the economy, free-market principles have gained widespread support. But political change has not yet come to China—and change has not come to an antiquated and outdated policy that continues to reward the dictators of Beijing with most-favored-nation trade status.

Mr. President, on June 4, 1989, the whole world witnessed in horror the brutal slaughter that took place in Tiananmen Square. The Bush administration responded by sending a top-level official on a secret voyage to Beijing—an undeserved reward for such a brutal act. The administration then successfully opposed congressional efforts to terminate MFN.

Since then, unfortunately, the list of grievances against the Chinese has only grown. Let me identify the major ones:

The Government of China continues to violate internationally accepted standards of human rights, including torture, arbitrary arrest, detention, and the use of prison labor;

The Government of China continues to deny Chinese citizens the right to free emigration;

The Government of China continues to violently repress the Tibetan people who seek political and religious freedom;

The Government of China continues to control trade unions and harass accredited journalists; and

Finally, the Government of China continues to engage in unfair trade practices against the United States, by raising tariffs, using discriminatory customs rates, imposing import quotas, falsifying country of origin documentation, and various other measures.

Mr. President, the debate over China MFN is often described as a debate over political principles and human rights standards—and indeed it is. The refusal of the Bush administration to take a firm stance against these actions is a strong rebuke to the so-called new world order the President has proclaimed.

But there is another side to the debate, and that is the economic side. All told, Mr. President, these unfair trade practices have contributed to a $12.7 billion trade deficit with China in 1991, compared to $6 billion in 1989. In 1992, this trade deficit is projected to rise to nearly $20 billion. In this time of recession, our trade policy with China is costing us jobs.

Accordingly, Mr. President, the legislation before us represents an effort by Congress to set United States-China relations on a wiser course. It would extend MFN for 1 year—but it would not be an open-ended commitment. For the Chinese to gain an additional extension of MFN, they would have to undertake significant reform.

In the area of human rights, the Chinese must begin adhering to the Universal Declaration of Human Rights in China and Tibet and allow the unrestricted emigration of those citizens who desire to leave China for valid reasons. The Chinese must also release those citizens detained for political beliefs, as a means of demonstrating a good-faith effort to release those imprisoned as a result of the Tiananmen Square uprising.

In the area of trade policy, the Chinese must take action to prevent the export of products made by prison labor or forced labor and make substantial progress in providing American businesses with fair access to Chinese markets.

In the area of religious freedom, the Chinese must make substantial progress in ceasing religious persecution in China and Tibet and in releasing those detained for religious beliefs.

In the area of missile proliferation, the Chinese must show progress in adhering to the guidelines of the Missile Technology Control Regime and other international controls on the transfer of weapons technology.

This legislation is similar in many respects to the legislation that has been passed by this body many times before—with one very significant difference: It would address only those products exported by state-run industries in China. In this way the legislation would allow private enterprises and foreign joint ventures in China to continue unimpeded. This is an important change to the legislation that I believe greatly strengthens its effectiveness.

Mr. President, I have heard it said many times during this debate that trade policy should be separated from political pressures whenever possible. It is often said that MFN is a clumsy political tool, that other measures should always be attempted first. On this point I would agree.

But in the case of China, Mr. President, we have simply run out of options. We have held out the carrot; now it is time for the stick. Otherwise we are left with a policy that coddles a repressive and inhumane leadership in Beijing.

I would submit to my colleagues that such a policy no longer deserves support. Mr. President, I urge adoption of this legislation.

Mr. BRADLEY. Mr. President, I am pleased to be a cosponsor of this important piece of legislation. We can no longer justify standing by as China continues to commit serious human rights violations against its own people. We do not want to continue to be the purchaser of goods made by prison labor in a vast, state-run gulag. We cannot continue to wait, as the administration has urged us to do, to see if continued trade with China as a most favored nation will lead to freer markets and greater liberty in China. It has not. We have already seen that.

China has taken advantage of our open markets while restricting our market access with a web of restrictions. The trade deficit with China is soaring. In 1992 the trade surplus with the United States is expected to reach $20 billion—second only to Japan as a source of our trade deficit. Yet by continuing to assure the Chinese regime that we will continue to grant MFN status no matter what, we undercut our own bargaining position. Why should we unilaterally give up one of the strongest bargaining chips we have to encourage positive change?

The Chinese regime continues to resist United States pressure to provide a full accounting of its political prisoners, releasing only a handful to date. Just recently it convicted party chief of staff Bao Tong in closed proceedings for allegedly disclosing state secrets in 1989. As long as these kind of abuses occur, as long as the old faces in China's leadership keep the images of June 4, 1989, fresh in American minds, we cannot just continue business as usual with China.

The United States must continue to condemn the Chinese Government's brutal suppression of the prodemocracy movement. The sanctions we implemented following demonstrations in Beijing in 1989—prohibiting defense-related exports, suspending military cooperation, opposing any further liberalization of export controls, opposing development loans unless they directly promote basic human needs, suspending the activities of the Overseas Private Investment Corporation—were only components of our preliminary response. If the leadership in Beijing continues to show little willingness to moderate its brutal repression of the Chinese people's political and human rights, we must send a stronger message to China—on behalf of those Chinese who cannot speak for themselves.

Mr. SANFORD. Mr. President, I rise to voice my opposition to granting the People's Republic of China [PRC] unconditional most-favored-nation [MFN] status. China's blatant disregard for human rights, unwillingness to curb arms proliferation, impermissible practice of using prison labor, and unfair trading practices have continued unabated since the tragic events at Tianeman Square. The behavior can no longer be tolerated or ignored.

The number of reported human rights violations in China are staggering. Amnesty International reports that hundreds of thousands of individuals were detained without charge last year. International human rights organizations are prohibited from entering the country or attending political trials. More than 1,050 executions were carried out by the Chinese authorities, many of which occurred within a few days after the individuals were arrested.

On April 13, 1992, one of the world's longest serving prisoners of conscience, Bishop Peter Joseph Fan Xueyan, died of pneumonia in China. Chinese Government officials had placed Bishop Fan under detention for some 34 years as a result of his refusal to break ties with the Vatican. The exact circumstances and location of his death went unreported by the Chinese Government. Recently, on July 21, 1992, another prominent Chinese reformer, Bao Tong, was sentenced to 7 years in prison for what the Chinese Government deemed counterrevolutionary incitement during the 1989 democratic movement. Once again, the Chinese found it necessary to block international access to the court proceedings.

Even with the free world's contempt for the Chinese Government's massacre of pro-democracy demonstrators in Tiananmen Square in June of 1989, the Communist Government of China continues to operate a policy of repression and abuse towards its own citizens. Asia Watch recently reported that more than 1,000 people were detained in the central province of Hunan as a result of the protests of 1989, and that at least 151 of these individuals are still in labor camps or prisons.

Perhaps the most blatant and brutal example of China's disregard for human rights has been in its treatment of the people of Tibet. In Tibet, Chinese security forces have killed dozens of people since 1989, and have arrested at least 1,025 pro-independence demonstrators since September 1987. Many of these arrested individuals have been held without charge for up to 3 years. In April 1991, some 20 political prisoners were severely beaten in the capital city of Lhasa.

While China has made a cosmetic attempt to alleviate international criticism of its human rights violations, the fact remains that the Chinese Government has yet to initiate a public inquiry into one of the most witnessed episodes of government execution in world history—the bloody Tiananmen Square massacre. Some 1,000 individuals were killed, several hundreds were arrested, and the fate of thousands of others remains unknown. In another example, the Chinese Government has failed to satisfy international demands to investigate the killing of hundreds of Tibetan independence demonstrators in Lhasa, Tibet from 1987 to 1989. China must be held accountable for these horrible episodes of state murder.

China's policy of preventing free emigration for its citizens also continues. The Jackson-Vanik amendment, which prohibits the granting of MFN status to Communist countries that restrict free emigration, has been waived annually by the Reagan and Bush administrations. In effect, this provision was established to prohibit countries with state-controlled businesses, like China and the former Soviet Union, from ben-

efiting from lower American tariffs. By waiving this provision, President Bush continues to support an economic system which is not fully based on free-market principles, but rather one where the government controls many industries and engages in the practice of price-fixing.

Directly related to the Chinese Governments appalling human rights record has been its usage of prison labor for producing textiles and other products for export. Reports of torture and abuse within the Chinese gulag abound; some official sources estimate that at least 50,000 individuals are sent to labor camps annually under a Chinese law which calls for reeducation through labor. In effect, this practice allows Chinese authorities to detain individuals for up to 4 years without charge.

In September 1991, Harry Wu, a former Chinese political prisoner, presented indisputable evidence to Congress that China continues to use prison labor to produce many of its goods. Mr. Wu, who spent 19 years in Chinese labor camps before coming to America, returned to China posing as a businessman to obtain live footage of prisoners producing goods for export. The result was 240 still photographs and 40 hours of videotape that undeniably demonstrate China's practice of using prison labor for exported goods.

The Congressional Research Service, Asia Watch, and the General Accounting Office have also documented China's use of prison labor. A July 23 1991, GAO report summary stated that "forced labor is an integral part of the political, judicial, penal and economic systems in the People's Republic of China [PRC] and is practiced throughout the country." By law, the importation of goods produced by prison labor is illegal; and by standards of common decency, it is reprehensible.

President Bush's continued devotion to unconditional MFN status for China has resulted in a trade imbalance that has skyrocketed during the past 4 years. Since 1988, the United States trade deficit with China has more than quadrupled to a current level of $12.7 billion. This imbalance is second only to that with Japan, and is projected to rise to nearly $20 billion in 1992. Even more staggering is the fact that 14 percent of America's total imports are Chinese textiles and apparel.

During the Reagan and Bush years combined, United States imports from China increased by 1,694 percent, while exports to China increased a mere 67 percent. What makes this trade imbalance so appalling is the fact that China has cheated and lied to achieve this trading superiority. China continues to use trading practices that employ currency devaluation, product dumping, ignoring quotas on textile exports, and flat out deceit. In May of this year, the United States Customs Service and the Internal Revenue Service announced indictments against a Chinese textile manufacturer, two of its United States affiliates, and four individuals for allegedly conspiring to devalue the Chinese textiles by $2.1 million, and cheat the American taxpayer out of $236,372 in customs duties. This practice of evading custom duties on Chinese textiles, often by transshipment through a false country of origin, is estimated to cost the United States as much as $300 million annually.

The result of this trade imbalance is two-fold: Loss of American jobs and strengthening of the old guard Communists in China. China's illegal trading activities undercut many North Carolina textile companies, forcing them to shut down or lay off workers. It becomes almost impossible for the North Carolina textile industry, which pays workers an average of $9.74 per hour, to compete with the Chinese who pay a mere $0.37 per hour. China's strong trade surplus with the United States also allows the Communist government to accumulate an enormous reserve of hard foreign currency, thus enabling its brutal Government to withstand international pressure to reform.

Finally, China should not be rewarded with unconditional MFN status because of its history of reckless weapons proliferation. Reliable reports indicate that China has exported missile guidance technology to Pakistan, solid fuel missile technology to Syria; and holds one billion dollars' worth of missile contracts with Iran, Syria, Pakistan and other countries of the Middle East. China continues to sell this missile technology even though it gave assurances to Secretary Baker that it would observe the Missile Technology Control Regime [MTCR] guidelines.

Equally discouraging is the fact that, even with our new geopolitical structure, China found it necessary to detonate a 1,000-kiloton nuclear bomb in May—the largest such nuclear test in Chinese history. But comparison, even during the last 40 years of cold war politics, the United States and Soviet Union agreed to limit tests to 150 kilotons.

I find it unpatriotic that the Bush administration continues to support a policy of granting unconditional MFN status to the totalitarian Government of China, while honest and hard-working North Carolina textile workers lose their jobs because of Chinese exports made with prison labor. A country which imprisons individuals who stand up for democracy and individual freedom, uses those individuals for cheap labor, and then violates agreements on textile exports should not be supported by our Government. I cannot think of a reasonable explanation for President Bush to use when he visits the textile towns in North Carolina, and finds devoted and loyal Americans unemployed as a result of the loss of textile jobs to the Chinese.

By continuing to grant unconditional MFN status to China, the administration is, in effect, supporting its brutal, repressive, totalitarian government, while simultaneously providing a subsidy for the export of its goods made from prison labor. Neither of these results are in the best interests of the United States or the world.

URGING CONDITIONS ON MOST-FAVORED-NATION TRADING STATUS FOR CHINA

Mr. KENNEDY. Mr. President I give my strong support to this measure to set conditions on most-favored-nation trading status with the People's Republic of China.

China's Communist leadership is preparing to hold it 14th party congress as early as next month. In light of the critical attention that this gathering will pay to foreign policy and trade, it is imperative that the United States take a strong stand at this time on behalf of democracy and human rights.

Since the bloody Tiananmen Square massacre in June 1989, the Chinese regime has taken steps to change its image as an international pariah. But it has not sought to end its repressive practices.

Last year, Beijing issued a white paper on human rights which stated that Chinese citizens are not subject to punishment on the basis of their political opinions, that there are no political prisoners in China, and that torture is strictly prohibited. Prisoners are so happy, according to Chinese authorities, that they often beg to remain in work camps after the completion of their sentences.

Beijing followed up this report by inviting all Chinese students in exile to return to their homeland without fear of retribution.

In fact, life in China continues to be very different from the rosy picture painted by Beijing. Three years after the Tiananmen Square massacre, the leadership remains far more concerned with retaining power than with democratic reform or respect for human rights.

Contrary to the Chinese Government white paper, since June 1989, the regime had detained over 30,000 pro-democracy advocates. It continues to bring new charges against political dissidents. A report documenting the torture now being inflected on these political prisoners was recently smuggled out of China by the human rights organization Asia Watch.

Political prisoners are typically sent off to gulags, where they are used as slave labor to lower the costs of the country's exports—many of which are targeted for Western markets.

The Beijing Government's invitation for exiled students to return home without fear of retaliation was recently put to the test, and the govern-

ment once again failed to live up to its word.

Shen Tong, a leader of the 1989 democracy movement at Tiananmen Square, returned to China with the government's permission a month ago, following 3 years in exile in the United States. He was arrested just hours before he was to open the first Chinese chapter of the Democracy for China Fund—an organization Mr. Shen had helped launch in Massachusetts.

Mr. Shen's Chinese colleagues were also seized, and their adviser, Prof. Ross Terrill, a scholar from Harvard University, was expelled from the country. The police confiscated the democracy activists' notebooks and computer discs, endangering every Chinese citizen who had the courage to meet with them. Recent reports indicate that the regime has begun to round up these individuals, too.

In addition to perpetrating these human rights violations, the Beijing regime is also responsible for serious human abuses in Tibet.

Chinese troops continue to occupy Tibet illegally. Under order from Beijing, the army had extended its brutal repression of the Tibetan people and expanded policies designed to destroy Tibetan culture. Reports of torture and murder of Tibetans are common.

Nor is human rights the only area in which the Chinese regime has failed to bring its policies in line with internationally recognized standards of conduct.

The United States Trade Representative reports that China continues to engage in numerous unfair trading practices with the United States. Among the infractions most recently cited are outright bans and quotas, discriminatory licensing requirements, and failure to publish relevant laws and regulations.

China also continues to undermine international peace by transferring advanced weapons and nuclear technology to countries which the White House itself has labeled terrorist regimes.

The possibility of terrorist states acquiring nuclear weapons is alarming. Yet the President opposes sanctioning China for transferring nuclear technology to Iran. He even opposes sanctioning China for providing Saddam Hussein with chemicals for the production of nerve gas and nuclear weapons.

We all support the administration's recent decision to sell F-16 fighter planes to Taiwan to counterbalance China's burgeoning military strength in the region. Clearly and properly, the administration was willing to confront Beijing on this regional security issue. It is hard to understand why the administration doesn't attach similar importance to imposing sanctions on China's sale of missiles, chemical weapons, and nuclear technology to terrorist regimes.

Our trade deficit with China is second to our trades deficit with Japan. Because of the large market in the United States for Chinese products, the United States has significant trade leverage with Beijing, and we should not hesitate to use it to induce essential reforms in Chinese behavior.

Last year, the administration's imposition of tariff penalties for trade infractions brought timely concessions from Beijing with respect to intellectual property rights.

The administration has threatened China with similar sanctions this year. Yet, the President insists that linking tariff penalties to securing the release of pro-democracy activists, ending slave labor, improving human rights in Chinese-occupied Tibet, and honoring arms agreements would jeopardize free market reforms and hurt the Chinese people.

Although the White House seems indifferent to the contradiction between its human rights and trade policies, it cannot have it both ways. The only difference between the administration's position and this legislation is the goals the United States hopes to achieve.

The administration is prepared to take Beijing to task on certain issues but it doesn't care enough to do the same when human rights and the arms race are involved.

The legislation being voted on today conditions MFN status on improvements by China in human rights, trade, and arms sales. It prohibits the President from renewing China's MFN status in July 1993 unless he reports to Congress that the Government of China has:

First, taken steps to adhere to the Universal Declaration of Human Rights for China and Tibet;

Second, accounted for individuals detained in connection with the Tiananmen Square massacre and begun releasing individuals imprisoned for expressing their political beliefs;

Third, taken steps to prevent the export to the United States of products made from slave labor; and

Fourth, made overall significant progress in ending religious persecution in China and Tibet, ending unfair trade practices against the United States, and adhering to the Missile Control Technology Regime and the controls adopted by the Nuclear Suppliers' Group and the Australian Group on Chemical and Biological Arms.

Noncompliance with this bill would bring tariff increases only on goods produced by state-owned enterprises—thereby shielding the nascent free market sector. Accordingly, suspending China's preferential trading status would not directly affect American business or the Chinese civilian population.

Enacting this legislation will place America on the side of human rights, economic reform, and ending the arms race. Our failure to do so will make a mockery of the Goddess of Justice, the sacrifices of the brave students in Tiananmen Square, our commitment to arms control, and our own democratic ideals.

I urge my colleagues to join in affirming America's commitment to those principles by enacting this timely and important measure.

Finally, Mr. President, I heard in the concluding remarks of our friend and colleague from Wyoming, that the only impact that this legislation would have on the people of China would be adverse. The Senator suggested that this legislation would not deal with the Chinese regime which is responsible for these human rights violations and China's outrageous trade and weapons proliferation policies.

We heard similar arguments here on the floor not that long ago when the Senate voted on economic sanctions with regard to South Africa. We can all recall the original response made by the South African Government: The United States can do whatever it wants—it will have absolutely no impact on decisionmaking in South Africa.

Yet, less than 2 years after the United States enacted economic sanctions, we saw the beginning of dramatic and significant reform in South Africa—a direct result of the actions that were taken by this body, the U.S. Senate, in passing those economic sanctions and later overriding the President's veto.

I think we have something to learn from this precedent, Mr. President.

It is also interesting to hear some of our colleagues object to the enactment of sanctions toward China and South Africa. Because when it comes to Cuba, or Vietnam, or North Korea or a whole host of other countries, many of these same Senators favor economic sanctions, and are the first to argue that they will have a positive effect.

Now we are talking about a country which has thumbed its nose at the United States and has recently arrested Shen Tong, one of the most courageous pro-democracy activists living today. I had the opportunity to spend time with Mr. Shen in my home State of Massachusetts and with many of his associates and friends. He is both a tireless advocate of the democratic values to which we are all committed and a patriot who deeply loves his country. I hope that we will stand by him, and the other courageous young pro-democracy activists like Mr. Shen, by passing this important legislation.

TITLE X PREGNANCY COUNSELING ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will now report the conference report on S. 323.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 323) to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 31, 1992.)

The PRESIDING OFFICER. The debate on the conference report is limited to 90 minutes, equally divided and controlled by the two leaders or their designees.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, the conference report now before the Senate contains legislation to overturn the gag rule and reauthorize the Title X Family Planning Program.

This legislation will reverse one of the most disturbing legacies of the Reagan-Bush years—the controversial regulations that prevent low-income pregnant women from receiving basic and complete information about their health care and all the options available to them.

These regulations clearly interfere with a woman's constitutional right to choose whether to end her pregnancy. And they deprive medical personnel across the country of their first amendment speech right to practice medicine and counsel patients according to the highest professional standards.

When Congress enacted legislation preventing Federal funds from being used to pay for abortions, it never intended to gag health care workers. It never intended to stop them from informing women about the option of abortion, counseling them on abortion, or referring them to health facilities where abortions could be obtained.

The gag rule adopted by the Reagan administration in 1988 was a gross distortion of the actual statutory language enacted by Congress, and an equally gross distortion of the legislative history. Congress never intended any such thing. We never wrote it into law, and we would have rejected out of hand any suggestion that regulations could be written that would interpret the statute in this way.

Nevertheless, in a brazen bow to the right wing in its final year in office, the Reagan administration twisted the statute into a rightwing pretzel and issued regulations creating the gag rule. It was irresponsible far-right jurisprudence of the worst kind—a kind that we often read about on the editorial page of the Wall Street Journal, but that is rarely accepted by responsible lawyers, let alone the Department of Justice of the U.S. Government.

In fact, the gag rule was the product of the same rightwing mentality that has been urging President Bush to unilaterally exercise the line-item veto, to use a pocket veto whenever Congress is out of session for longer than 3 days, and to issue regulations indexing capital gains in the Tax Code.

Fortunately, even the Reagan and Bush Justice Departments have not been able to stomach these extremist proposals. Unfortunately, they let the gag rule through.

A sharply divided Supreme Court sustained the gag rule in a 5-4 decision by the Chief Justice Rehnquist. The majority opinion gave short shrift to the free speech rights of physicians and health care workers. As Justice Blackmum wrote in dissent:

> The majority professes to leave undisturbed the free speech protections upon which our society has come to rely, but one must wonder what force the First Amendment retains if it is read to countenance the deliberate manipulation by the Government of the dialogue between a woman and her physician.

Despite the division on the Supreme Court over the validity of the regulations, all members of the Court would agree that Congress is free to repeal the gag rule regulations. And that is what we will accomplish by passing this conference report.

Virtually every major medical organization, including the American Medical Association, the American Academy of Family Physicians, and the American Nurses Association, have expressed their opposition to the gag rule. So have leading public health schools across the country.

The basis for opposing the regulations is plain. Health professionals must be free to treat patients as they see fit, in accordance with their professional standards and without interference from politicians. The gag rule undermines this fundamental principle.

For years, Congress has worked to provide quality health care to all Americans, regardless of their ability to pay. The gag rule regulations subvert that goal in an insidious fashion. The regulations do not affect the ability of affluent women to get the information they need to exercise their legal rights and make informed decisions on family planning. But low-income women are entitled to receive only limited health care information that has been sanitized and cleared by Government censors.

A double standard in health care is wrong. Such limitations on access to health care information are flatly unacceptable.

The action we take today is an important step in the effort to repeal this foolish rule and let public health clinics get on with the job of providing health care and needed information to the women they serve. I urge the Senate to take this step.

In addition to repealing the gag rule, the conference report also reauthorizes the Title X Family Planning Program for the next 5 years.

Title X of the Public Health Service is one of the most successful and cost-effective health care programs ever enacted. Since 1970, title X has been the core of our national family planning effort, Each year, a network of 4,000 public and private clinics around the country provides medical and educational services to over 5 million low-income women and teenagers.

While their primary focus is contraceptive services, title X-supported clinics offer preventive health care and are often the first place where low-income women—and especially teenagers—receive formal medical care. Among other important health services, the clinics offer health screening assessments and treatments or referrals for anemia, hypertension, cervical cancer, breast cancer, sexually transmitted diseases, kidney disease, and diabetes.

Each year, it is estimated that family planning services prevent 1.2 million unintended pregnancies. Without these services, there would be an additional 509,000 unwanted births and 516,000 abortions each year.

Every public dollar spent to provide contraceptive services saves $4.40 in taxpayer funds in the first year that otherwise would go toward medical care, welfare, and other mandated social services. That means an overall saving of $1.8 billion a year.

Title X is a key part of our effort to cope with the current epidemic of adolescent pregnancies. It is hard to overstate the serious nature of this challenge. Almost 1 million teenagers become pregnant each year. Eighty-four percent of these pregnancies are unintentional. More than three-quarters of these pregnant teenagers are unmarried. Almost half of these pregnancies will end in abortion. And far too many of the teenage pregnancies carried to term are at risk of infant mortality, future child abuse, and future welfare dependency.

Sixty percent of all AFDC payments go to women who were teenage mothers. Welfare-related costs for teenage pregnancy, including AFDC, food stamps, and Medicaid, cost $16 billion per year. If the teenage birth rate were cut in half, the savings would be monumental.

It is no wonder that the Southern Governors' Association Project on Infant Mortality urges the Federal Government to strongly support the title X family planning program which provides 1.5 million teenagers with preventive health services to reduce unintended pregnancies and to improve maternal and child health. The U.S. Conference of Mayors endorses reauthorization and full funding of the title X family planning program.

Overall, there are approximately 39 million low-income women of all ages

at risk of unintended pregnancy in the United States. The incidence of unintended pregnancies is a staggering 55 percent.

As the family planning program attempts to deal with the epidemic of teenage pregnancy and the vast unmet need for family planning services, the budgets of the title X clinics are also being overwhelmed by an explosion in the number of patients infected with sexually transmitted diseases, including AIDS. The cost of pap smears, critical to the detection of cervical cancer, has increased nearly fourfold over the last 3 years. Norplant, the newest contraceptive method, will cost clinics $350 and an additional $200-$300 for each implantation—too much for most clinics to pay.

As a result of increased costs, clinics have been forced to ration health care in unacceptable ways, by cutting services, charging higher fees, maintaining long waiting lists for appointments, and curtailing their outreach programs into the community. They have found it difficult to maintain, much less expand, other types of services urgently needed in low-income communities.

Yet at the same time that the demands of family planning clinics are expanding, public funding for the clinics has declined in real dollars. After adjusting for inflation, title X funding has actually declined 58 percent since 1981. One of the reasons the program has suffered in the appropriations process is that the title X program has been unauthorized since 1985. This legislation authorizes the program and provides for modest increases in funding—an additional $45 million in fiscal year 1993 and small additional increases in subsequent years.

No discussion of the need for the family planning program would be complete without reference to the frequent attacks on title X based on spurious allegations that it somehow fosters abortion.

The fact is that since its enactment in 1970, title X has included a prohibition on the use of family planning funds for abortion. Investigations by the General Accounting Office and the inspector general of the Department of Health and Human Services have shown that title X providers are scrupulous in their adherence to the law regarding abortion. Not only have title X funds never been used to pay for an abortion, it is irrefutable that title X has been the most effective Government effort in reducing the need for abortion. As I noted earlier, without family planning services, there would be an additional 500,000 abortions every year.

The pending bill provides a straight dollars and dates reauthorization of the title X program. There are no new initiatives. It simply extends the existing program for an additional 5 years.

The bill does, however, require title X grantees to comply with applicable State law on minors' access to abortions. The legislation specifies that no facility that performs abortions is eligible for title X funding unless it has certified that it is in compliance with its State law regarding parental notification or consent for the performance of an abortion on a minor. Given the wide variation among existing State laws on the issue of minors' access to abortion, and given that title X has no funding or program involvement in the provision of abortions, the conferees decided against establishing a Federal standard and chose to defer to State governments.

The title X family planning program is a program that works. It provides needed health care services; it reduces unintended pregnancies and teenage pregnancies. And it reduces the need for abortion.

In sum, this conference report will accomplish two fundamental objectives. It will overturn the gag rule, so that American women will be entitled to the full information about their medical options that is fundamental to their right to choose. And it will reauthorize a program that is essential to meeting the needs of American women for family planning services and that serves a wide range of other important public health objectives. I urge the Senate to approve this conference report, and I urge President Bush to sign it into law.

Mr. PACKWOOD. Mr. President, will the Senator from Utah yield me 4 minutes?

Mr. HATCH. I will be delighted to.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, I rise in strong support of the conference report on S. 323, which would reauthorize the title X Family Planning Program and overturn restrictions on the discussion of abortion, which we have come to know as the gag rule.

Mr. President, as I read back through the legislative and legal history of the gag rule, I am exhausted—exhausted—to recall the discussions we have had, the times we have voted, the amicus curiae briefs, the meetings with agency officials, the phone calls and letters to the administration, and everything else that it has taken to cope with the fallout from this unfortunate and ill-advised policy that originated in 1988, that would keep medical personnel from providing high-quality services, and keep pregnant women from ever learning about their legal and medical options.

But although I may be exhausted, Mr. President, I am not defeated, and the forces who believe in the availability of high-quality family planning services are not defeated, for here we are 4 years later. The gag rule has still not taken effect in most of this country, and that is a critical fact. Family planning clinics still have not lost their funding for merely doing their legal and ethical duty, so we can claim a victory of sorts. But, unfortunately, even as we recognize this, the record of Damocles is poised over the heads of women whose health services depend upon title X funded clinics.

I expect that the Senate will pass the conference report on S. 323, and when it does and it comes before the President, I hope he will sign it. I hope he will see, as I do, the critical necessity of federally funded family planning, which keeps so many families off the poverty roles by giving them control over the size of their families. I hope he will see the vital importance of respecting the rights of medical professionals and American women to communicate confidentially about their options and treatment.

Finally, Mr. President, I urge my colleagues and the President's support of this conference report. Whatever the outcome, I pledge my continuing nonstop efforts to overturn the gag rule and to ensure the future of family planning in this country.

I thank the Chair and I thank Senator HATCH.

Mr. CRANSTON. Mr. President, I rise in strong support of the conference report on S. 323, the reauthorization of the title X Family Planning Program. This legislation would extend the authorization of appropriations for the Federal Family Planning Program, title X of the Public Health Service Act, through fiscal year 1997 and would reverse the gag rule imposed upon Family Planning Program providers by the Reagan administration in 1988. Those regulations, upheld last year by the Supreme Court in the infamous Rust versus Sullivan decision, prohibit health care workers in federally funded family planning programs from providing information to patients regarding the subject of abortion.

The gag rule means that the low-income women who must depend upon these clinics for reproductive health care services will have withheld from them information on all of the options and choices available in dealing with a problem pregnancy. The medical information provided to these women under the gag rule will be determined by the antichoice policies of this administration, not the needs of the patients.

Mr. President, the title X program was first enacted in 1970. I am proud to have been one of the original authors of this program and to have served as chairman of the authorizing subcommittee during the 1970s. Title X is a program that has worked effectively for millions and millions of low-income women. It has provided access to contraceptives for women who would otherwise have faced unintended pregnancies. More than any other federally funded program, title X has reduced the number of abortions in this coun-

try. Although in its early years title X enjoyed broad bipartisan support, in the past decade under the Reagan-Bush Administrations, it has become the target of rightwing extremists who have done everything possible to undermine this vital program.

Title X funds have never, ever been used for abortion services. Field investigations by GAO and HHS have repeatedly found no evidence that the provisions of the 1970 law prohibiting the expenditure of title X funds for abortion services have been violated. But health care providers working in title X programs have always been able to provide information to women about their right to terminate a pregnancy. Women who receive family planning services through title X programs are entitled to receive answers to their questions about the option of abortion.

Mr. President, the gag rule is a gross intrusion upon the ability of health care providers to provide information to their patients and the right of patients to receive full and unbiased information. It is unconscionable and should be repealed.

I know that President Bush has promised his antichoice supporters that he will veto this bill. I urge him to reconsider that promise. Enactment of this legislation and reauthorizing the federally funded Family Planning Program will certainly do more to reduce the number of abortions in this country by making contraceptive services available to those who wish to avoid an unintended pregnancy than the cruel and ultimately futile policy of trying to withhold information about the option of abortion from low-income women.

Mr. HATFIELD. Mr. President, I appreciate the opportunity to speak today in support of the conference report to the title X Pregnancy Counseling Act of 1991. As you know, Congress has not reauthorized this important program since 1985.

Approximately 4,000 family planning clinics throughout the United States are administered by title X grantees. These clinics provide family planning services, as well as preventive health care, to more than 4 million women each year. While the majority of family planning clinics are administered by State and local health departments, clinics operated by Planned Parenthood have larger family planning caseloads. In my own State of Oregon, there are 42 clinics which receive title X funds. Depending on clinic size, these clinics serve between 200 and 6,319 patients a year.

My support for family planning programs is well documented. As an opponent of abortion, except when the life of the mother is endangered, I feel it is imperative that we provide family planning services to women to prevent unwanted pregnancies. And I am disturbed by the unwillingness of some who are opposed to abortion to support family planning programs. Despite this opposition, the Appropriations Committee has continued to provide emergency funding for the title X program. I am glad that I have played a role in securing this funding.

The foremost argument raised in opposition to the title X program is that it encourages abortion as a method of family planning. Let me say in the strongest terms possible that this is untrue. Not one case has been documented by the Department of Health and Human Services to show that title X grantees are promoting or encouraging abortion. If this was occurring, I would not support funding for this program. Prior to the implementation of the gag rule regulations, which prohibit abortion counseling or referral, title X grantees were able to provide nondirective, noncoercive abortion counseling and referral. As I stated before, not a single case has shown an abuse of this requirement.

I have supported overturning the gag rule because I believe it was implemented only to further erode our national Family Planning Program. That program places its emphasis upon the prevention of pregnancy. The clinics and health centers which receive funding from the program often are the only care facility poor women visit and therefore many women with unwanted pregnancies come in for testing and counseling. If physicians refuse to work at federally funded clinics because of the gag rule or, if poor women stop coming because they feel that the clinic will not provide basic, nondirective assistance, then the gag rule will only serve to keep family planning services away from those who need their preventive services most. Furthermore, doctors and nurses are bound by oath to advise their patients of all medical options. Prohibiting this nondirective discussion improperly infringes on the patient-physician relationship.

The issues surrounding abortion are extremely divisive and oftentimes irreconcilable. However, I strongly believe there is common ground for both sides to join to stop unwanted pregnancies. Support for increased family planning is one of these areas. We have the resources to make family planning options and education readily available to all women but we have allowed the abortion debate to cloud the issue. I hope my Senate colleagues keep this in mind and support the reauthorization of the title X Family Planning Program.

Mr. COATS. Mr. President, today we are considering the conference report to S. 323, legislation overturning a portion of the Supreme Court's Rust versus Sullivan case which upheld the validity of Federal regulations of the title X family planning program. This legislation is not as simple as one might want to believe. It does not merely address the issue of free speech as the lobbyists have maintained, in fact, it mandates speech without regard to matters of conscience.

S. 323 redefines the entire scope and focus of a program already plagued with controversy.

I regret being in this posture today, because I am generally supportive of the title X program's goals. I feel title X does some things very well. But it should not be involved in counseling for abortion. Clearly, Congress never intended that abortion counseling be a part of our family planning program.

Section 1008 of the Public Health Service Act contains the following prohibition which has not been altered since 1970: "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning." This is the issue we are debating today. Not free speech, but rather whether abortion is a method of family planning. I maintain it is not. Rather abortion is the result of failed family planning. Those of us who believe abortion is not birth control, not family planning, find these regulations very reasonable. If abortion is not family planning then why should Federal taxpayer funds be used to include abortion information in a federally funded family planning program? To do so is simply illogical and inconsistent with existing law.

Section 1008 clearly creates a wall of separation between title X programs and abortion. It embodies a view that abortion is inappropriate as a method of family planning—a view which a majority of Americans share. The Supreme Court has, on several occasions, recognized abortion as "inherently different from other medical procedures, because no other procedure involves the purposeful termination of a potential life." (Harris versus McRae).

The Court has further stated that there is a "legitimate congressional interest in protecting potential life."

It is important to recognize that the broad language of section 1008 extends to all activities conducted by the federally funded project, not just the use of Federal funds for abortions within the project. Moreover, it is clear that Congress designed the title X program to provide preventative family planning and infertility services, not to provide all possible medical services, including services for the care of pregnant women.

This was the law of the land until 1981, when the Department of Health and Human Services issued revised title X program guidelines. These guidelines went further than permitting so called nondirective abortion counseling, but instead required title X projects to engage in abortion-related activities. S. 323 has the same effect. While cloaked in a mask of protecting free speech for a few—we are mandat-

ing speech for all without regard to their conscience, or religious or moral objections—a concept I personally find and would think the medical community would find repugnant.

Mr. President, it is important to remember that these regulations were not promulgated without a purpose. They were in response to programmatic difficulties, concerns from former title X clients, and several audits conducted by the Inspector General and the General Accounting Office. In 1982, both the Department's Office of the Inspector General and the General Accounting Office urged the Department to give more specific formalized direction to programs about the extent of prohibition on abortion as a method of family planning.

The Inspector General, after auditing 32 title X clinics, found that the Department's failure to provide specific program guidance regarding the scope of section 1008 had created confusion about precisely which activities were proscribed by the section 1008 and had resulted in variations in practice by grantees. In particular, the GAO, in a report based on an audit of 14 title X clinics, found that the clinics were relying on the Department's policy of permitting both title X family planning services and separately funded, abortion-related activities to be provided at the same site. In the report, GAO found that some of these providers had engaged in a number of practices which did not present alternatives to abortion, clinic referral practices which went beyond HHS referral policy, and clinic literature promoting abortion as a method of family planning. Further, the GAO found questionable lobbying expenses, including some instances where clinics had used title X funds to pay dues to organizations that lobbied and two instances where small amounts of programs' funds had been used directly for lobbying.

In 1988, the Department responded to these and other concerns when it issued the regulations we are being asked to overturn today. These regulations seek to restore title X to its original mission, the provision of preventative family planning services. And counseling concerning abortion is manifestly not related to preventative family planning services.

To clarify his intent with respect to the doctor-patient relationship, President Bush on November 5, 1991, signed an Executive order which clarified that "nothing in these regulations is to prevent a woman from receiving complete medical information from a physician."

Additionally, the Department's regulations clearly provide every pregnant client will be given a list of appropriate caregivers including hospitals, whose principal business is not abortion. Further, it is absolutely incorrect to say that title X grantees cannot mention abortion when a mother's life is threatened. When the mother's life is threatened, title X health professionals are not only permitted but required by the title X regulations to refer her for proper and immediate medical care.

The regulations were amended after the public comment period to drive this point home, and make clear that title X providers are in fact obligated to provide referrals for immediate and appropriate medical care when confronted with life-threatening medical conditions. In any cases in which emergency referrals are needed, the title X project must expedite the referral and take whatever steps are necessary and appropriate to insure that the client receives the services needed quickly. In addition, title X providers have always been required to refer clients for any and all medical conditions discovered. So it makes perfect sense that pregnant clients would be referred to medical facilities since pregnancy is a medical condition and title X clinics are not required to provide medical services. Less than 25 percent of title X clinics even have a physician at the site. Some physicians, like in my own State have the responsibility to oversee the activities of up to 18 clinics.

Further, prenatal services, like the requirement for pregnancy options counseling, was not a part of the title X program prior to 1981. Under the 1981 program guidelines, prenatal services other than initial diagnosis and counseling could only be provided by title X projects in very specific and limited circumstances and with prior approval from the relevant regional office of the Department. Since 1981, very few title X clinics have requested or received this authority.

At the present time, for instance, HHS is aware of only two grantees in one region that have received approval to provide extended prenatal services as part of their title X projects. Thus, it is not correct, as contended by some, that prenatal services have traditionally been a major component of the title X program. The regulations emphasize the importance of helping clients to receive appropriate prenatal care through referral. Title X projects are required to facilitate access to prenatal care and social services, including adoption services, that might be needed by the pregnant client to promote her well-being and that of her child, while making it abundantly clear that the project is not permitted to promote abortion by facilitating access to abortion through the referral process.

It has been alleged that no organization which performs abortion would be allowed to be on the list. That also, is simply untrue. One need only read the regulations to understand that the regulations only prohibit inclusion on the list providers whose principle business is the performance of abortion. They do not prohibit the inclusion of facilities, such as hospitals, in which abortions are performed if they are also major providers of prenatal care services. The issue is not whether information should be provided, but rather, who is in the best position to provide that information.

We have also heard today that the regulations will result in exposing poor and young women to substantially greater risk or delay in obtaining service related to pregnancy outcome. This contention is based on the assumption of delay or client loss in the referral process.

However, such a risk has always existed in the title X program as it has never provided any pregnancy outcome services, whether abortion services or delivery services. All that the referral requirements do is move what has always been, where pregnancy is diagnosed, an inevitable referral slightly ahead in time. Moreover, there is no reason why a properly operating referral process cannot operate just as efficiently if it refers at the time pregnancy is diagnosed as it can if it first provides options counseling and then refers—in fact, it should be more effective.

Because title X projects do not offer the complete continuum of care from pregnancy diagnosis to childbirth, there may have been and may continue to be some unavoidable delays in individual cases. The only way to completely eliminate any gap in time would be to award title X funds only to organizations which provide the entire spectrum of obstetric and gynecological services. This would eliminate all providers except hospitals.

One could also note that such concern evidences a substantial misunderstanding of—and to the extent they come from title X providers, probable noncompliance with—title X requirements. Contrary to the claims of many providers, title X has never permitted more than mere referral, that is, the provision of the name and telephone number of a provider for abortion. The extensive facilitation of abortion—such as setting up appointments, making transportation arrangements, making arrangements for payment of the abortion—that many consider to have been common practice have never been permissible in the title X program. The administration's regulations make sure that scarce family planning resources are used for the purposes for which they have been appropriated—and not for abortion services.

Planned parenthood, which receives $35 million from title X while being the Nation's single largest provider of abortion services maintains that given the regulation's requirement that abortion not be a part of federally funded title X programs, they would reject title X funds. Thus, they argue, a net

loss of services to the population currently served by title X would result and possibly a third of current patients may become unintentionally pregnant within 12 months if their services are interrupted.

Mr. President, there is no reason for title X services to be interrupted. All present title X grantees can continue to receive Federal funds and provide family planning services. Only those organizations which are ideologically more committed to promoting abortion than to providing family planning will no longer get funds. Title X will continue to be provided to clinics committed to providing legitimate family planning services to title X clients. Thus, the regulations help to assure that scarce resources are allocated to preventative family planning and infertility services not to the inappropriate referral of pregnant clients to abortion clinics.

I urge my colleagues to support the administration's regulations and reject the premise that abortion is a method of family planning.

Mr. JEFFORDS. Mr. President, as a proponent of the philosophy and programs within title X, I rise in support of the conference report.

I believe the legislation before us today is of utmost importance. Title X was first enacted in 1970 as a means of providing health assistance to low-income women through grants to public and private agencies. The need for this program was as evident in 1970 as it is today.

Lest we forget, however, let me quickly review some of the facts and figures of my own State of Vermont. Vermont is a small—recent census data show a population of 557,000—rural State. Yet evidence of need is as great in my State as it is in other States. A study done in 1989 suggests that among 15- to 19-year-old women in Vermont, the pregnancy rate is 82 per thousand; the birth rate for this group is 35 per thousand. Although these rates are among the lowest in the Nation, too-early childbearing remains a serious problem in Vermont. In 1987, only 49 percent of pregnant teens in Vermont received prenatal care beginning in the first trimester; 8.2 percent of the babies born to teens were low birthweight. And in Vermont, a single parent under 25 is nine times more likely to be poor than a young woman living on her own without children.

If lowering the numbers of teenage pregnancies and increasing the medical services to low-income women does not persuade, then perhaps the reduction of costs will. In Vermont in 1989, $38.6 million of outlays in the form of AFDC, food stamps, and Medicaid were attributable to teenage childbearing.

I hope that neither the statistics nor the costs are the determinative factor as much as the recognition of the toll on young women and children. For as much as we can speak of reducing costs or numbers it is all moot if we continue to ignore the often terrible toll that early childbearing has on young women today.

These sad statistics need not continue to rise nor, more importantly, can they be ignored. Studies indicate that among the many resources available are education—to reduce the numbers of teen pregnancies—and prenatal services—to reduce the number of low birthweight babies.

But the program, initially instituted to assist and educate, has become so embroiled in political debate that its original functions have been lost. The primary missions of title X clinics are to provide medical assistance and education to low-income women.

Having said that, it is true that reauthorization does lift the administration's 1988 regulations, referred to as the gag rule. The gag rule prohibits counseling regarding pregnancy termination or referral by title X health care practitioners. While this has been an issue of great debate since the 1988 regulations, it was not a question in the original title X bill.

I believe the 1988 regulations are inconsistent with congressional intent. Since its enactment in 1970, title X has included a prohibition on the use of family planning funds for abortion. However, in enacting title X, Congress intended that pregnant patients served by the title X program be provided with nondirective counseling and all information necessary to make an informed choice between parenting, adoption, and pregnancy termination.

Let us go back to the original intent of Congress in passing the title X program and steer away from the politics. This should be an issue of equity—equity for all women regardless of their income level to receive full and adequate health care information. I urge my colleagues to look beyond the politics of today and instead focus on the needs of the recipients of this important program.

UNITED STATES-CHINA ACT

The Senate continued with the consideration of the bill.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2985

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 5318; that it be in order to amend the bill with the amendment I now send to the desk on behalf of Senators KERRY and SMITH.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is granted. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for Mr. KERRY, for himself, and Mr. SMITH, proposes an amendment numbered 2985.

Mr. KENNEDY. 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:

On page 19, after line 19, insert the following new paragraph and resdesignate the succeeding paragraph accordingly:

"(4) is cooperating with the United States in efforts to account for United States military or other government personnel taken prisoner, missing in action or otherwise unaccounted for as a result of their service in—

(A) the Korean conflict; or

(B) the Vietnam conflict."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2985) was agreed to.

Mr. KENNEDY. I move to reconsider.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the bill, as amended, is passed and the motion to reconsider is laid on the table.

So the bill (H.R. 5318), as amended, was passed.

TITLE X PREGNANCY COUNSELING ACT—CONFERENCE REPORT

The Senate continued consideration of the conference report.

The PRESIDING OFFICER. Who yields time on the conference report?

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. I ask further that Judy Applebaum and Karen Lightfoot be granted privileges of the floor during the consideration of the conference report on S. 323.

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

Mr. HATCH. Mr. President, today we are debating the bill that would overturn a very reasonable policy that keeps family planning separate from abortion. Some call this policy the gag rule. Let me state, the only gag here is on the truth about the title X regulations. They make sense to most people, if you understand them. I know my colleagues who are as committed to family planning as I am—and I am—would like to see title X passed but not with the language it has in its current form. The U.S. Government, since 1970, and the current administration are also fully committed to funding family planning programs. That is not the ar-

gument before us today. The bill we are debating today, S. 323, would mix the abortion business with family planning and use Federal taxpayer dollars to do so. It does not make sense that a program originally intended to reduce abortion should provide counseling and refer women for abortions. Family planning is a separate issue, one that most of us agree to support, and so we should keep the politics of abortion out of it. I am opposed to this bill on those grounds.

The title X regulations, issued in 1987, clarify the roll of title X, that abortion is not an appropriate method of family planning. There have been abuses over the years, such as the commingling of abortion and family planning services, and the regulations help to clarify the role. The regulations do not impede a woman's right to receive family planning services or any medical care or even her right under the law to get an abortion if she wants one.

I want to review the history of the title X program. Title X is a $150 million Federal family planning program serving 4 million clients a year through 4,000 clinics. It was established in 1970 under the Public Health Service Act. The purpose of the title X program is the provision of preventive, prepregnancy family planning services.

The title X program is not a full-service health program, nor could it be. Once a woman is found to be pregnant, she no longer needs and is no longer eligible for the services of title X. Nationwide, 10 percent or less of the total number of clients coming into title X clinics are found to be pregnant. Clients seeking more comprehensive medical services must be referred to another provider.

The regulations are consistent with the administration's policy that abortion is not an appropriate method of family planning. They are consistent with the statute that created title X in 1970, which says "None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning." The regulations apply to title X projects, but not to grantee activities that are not part of the title X project.

We all support—well if not all, then nearly all, including myself, family planning program as enunciated under title X. However, when you mix abortion with it, then it becomes offensive, and that is one reason why this particular authorizing legislation has not been reauthorized since 1985.

Family planning should be based on a respect for human life, human dignity, and strengthening families. Family planning should reduce the incidence of abortion. As the Congress has recognized, abortion is not a legitimate method of family planning because it involves the destruction of unborn human life. Family planning is meant to prevent or promote pregnancy, not to promote pregnancy termination.

Part of the mission of the title X program is to help women to avoid unplanned pregnancy and help women plan the timing and spacing of their children.

Despite section 1008 and in the years preceding the issuance of the regulations, both the HHS inspector general and the General Accounting Office urged the Department to give more specific and formal direction to projects about the relation between abortion and family planning. Their reports found confusion in the clinics and variances in program practices to preselect how they would deal with their pregnancy before a pregnancy was even administered, provision of and witnessing execution of abortion consent forms, and counseling solely on abortion.

On September 24, 1982, the GAO summarized the problem in a report titled, "Restrictions on Abortion and Lobbying Activities in Family Planning Programs Need Clarification." The GAO recommended that: "The Department of Health and Human Services [HHS] needs to set forth clear guidance on the scope of abortion restrictions in its title X program regulations and guidelines."

President Reagan issued the regulation guidelines in 1987, and President Bush has continued this sound policy.

The regulation provides clear, operational guidance to title X grantees about the extent of the section 1008 prohibition in their day to day activities.

Specifically, it prohibits title X counselors, volunteers, and nurse practitioners from such activities as counseling, referring, or steering clients for abortion. The regulations do not, however, forbid title X projects from mentioning the word "abortion." (42 CFR 59.8) The regulation restores the integrity of the family planning program to what it was intended to be—a quality preventive health program.

The regulations have been found to be constitutional according to the U.S. Supreme Court. On May 23, 1991, in deciding the case of Rust versus Sullivan, the Court sustained the HHS regulations to clarify the operation of the statutory prohibition on abortion as a method of family planning.

The issue has nothing to do with freedom of speech. The Supreme Court in Rust wrote:

> The Government has no constitutional duty to subsidize an activity merely because it is constitutionally protected and may validly choose to allocate public funds for medical services relating to childbirth but not to abortion. (*Webster* v. *Reproductive Health Services*, 1989). That allocation places no governmental obstacle in the path of a woman wishing to terminate her pregnancy and leaves her with the same choices as if the Government has chosen not to fund family planning services at all.

These regulations provide that when a title X client is found to be pregnant, that she must be provided a list of prenatal and social service providers that promote the welfare of the mother and unborn child. These providers may perform or refer for abortion, such as hospitals or community health centers, as long as their principal business is not the provision of abortion. There, the client can learn about all her options from medical personnel trained in obstetrics±.

This chart shows a memorandum from President Bush to the Secretary of Health and Human Services dated November 5, 1991. Here is what it says:

> Throughout the debate about the relationship of the title X family planning program and abortion counseling, some have raised questions about the regulations dealing with services offered to pregnant women.
>
> We must ensure that the confidentiality of the doctor-patient relationship will be preserved and that the operation of the title X family planning program is compatible with free speech and the highest standards of medical care.
>
> In order to clarify the purpose and intent of these regulations, I am directing that in implementing these regulations you ensure that the following principles, inherent in the statute, are adhered to:
>
> 1. Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician.
>
> 2. Title X projects are to provide necessary referrals to appropriate health care facilities when medically indicated.
>
> 3. If a woman is found to be pregnant and to have a medical program, she should be referred for complete medical care, even if the ultimate result may be the termination of her pregnancy.
>
> 4. Referrals may be made by title I programs to full-service health care providers that perform abortions, but not to providers whose principal activity is providing abortion services.
>
> I am determined to assure the integrity of the title X program in its mission to provide family planning services to low-income individuals; adherence to this guideline will produce this result.
>
> Signed, George Bush.

These regulations do not interfere with the doctor-patient relationship. The regulation will be implemented in accordance with the November 5, 1991, memorandum which provides, "Nothing in these regulations is to prevent a woman from receiving complete medical information from a physician." This provision is intended to apply to medical information, provided only by a physician directly to his or her patient.

The administration has made it clear that there are no restrictions placed on the medical content of the physician-patient discussion. A physician in title X is able to provide any medical information about abortion that he or she deems necessary for a patient; it is that simple.

Of course, referral to specialized medical care for medical conditions which may complicate pregnancy, even if the ultimate result may be the termination of her pregnancy. If a client

is pregnant and suffers from a medical emergency, such as an ectopic pregnancy, the regulations require that the clinic refer her to emergency treatment even if it results in an abortion.

The regulations are pro-prenatal care and pro-woman. They promote services a woman needs if she is found to be pregnant. As I mentioned, if a woman is pregnant she must be referred to full services medical facility who can help her with prenatal care or whatever she needs. That is not the role of the title X clinic. However, a doctor in the title X clinic may give information he deems medically necessary for the client.

Dr. James O. Mason, Assistant Secretary for Health, underscores that point that the regulations are pro-prenatal care. I am quoting from remarks he made in June 1991.

Let me underscore the importance of this program as a key component in our Department's effort to reduce the national problem of infant mortality.

Dr. Mason said:

I believe that an important and often overlooked aspect of this regulation is its requirement that if a client is pregnant she will be assisted to obtain access to vital prenatal care. From the point that pregnancy is confirmed, the public health role is to provide quality medical care for two patients—the mother and her unborn child.

The regulations are consistent with medical ethics. No women is denied important medical information. In fact, the title X program serves an important role in linking its clients to other aspects of the medical care system. Title X is an important point of access to the public health system for many women, and serves as a link to specialized service, such as prenatal and other health care. Women will not suffer inferior care as a result of the new regulations. These regulations will not, as some claim, create a two-tiered health care system: one for women who can pay for treatment; the other for poor women who cannot pay.

We are a nation that believes that necessary medical services should be available to all persons. We are a nation that has invested heavily in providing and subsidizing these services. It is my belief that just the opposite is true. Women will have better health and healthier babies due to the services' referrals of the regulations.

If anything, the real two-tiered system is one in which some women who have resources are referred for treatment services, and other women, who may be poor, or teenaged, or unmarried are simply encouraged to have abortions. This thwarts our intention of providing linkages to services for all women. It has the effect of telling them that they are not good enough, and that their babies would not be good enough.

Despite challenges to the regulations, they have been implemented without incidence in five States and U.S. territories since 1988. Those States are Texas, Kentucky, South Dakota, Iowa, and Nevada.

I need not remind my colleagues that the President has vetoed an earlier HHS appropriations bill—containing a similar provision as S. 323—that tried to invalidate the 1988 regulations. That veto was sustained. Likewise, there is currently a senior adviser's veto recommendation on this legislation.

It, too, will be vetoed if it passes, and I am sure it will, but it will be vetoed, and I am confident that that veto will be sustained.

In conclusion, I have to say that I have been interested in this debate through the years because I find it ironic that for some, until recently, the criticism of these regulations has been that they would keep women away from physicians' counseling about the alternatives to pregnancy. In the original debate that did appear to be the case. But since then, the President has issued this Executive statement which now is put into the formal roll of regulations.

The President has clarified this point and stated that family planning clinic physicians are allowed to refer women to full service medical providers.

Now it appears that the opponents of the President want social workers and even those with less than social work backgrounds, volunteers with just plain on-the-job training, to be able to recommend surgical procedures like abortion in family planning clinics.

These nonmedical providers are not trained and do not understand in most cases the risks and effects of these procedures. Would we promote untrained volunteers and social workers recommending coronary artery bypass surgery or some other form of surgery? Of course, we would not. We would have the best physicians, those who are trained and really understand this, make these determinations. Should we want less for the women who appear at these clinics?

I find that there is an all-out devotion by some of the opponents of President Bush to their own version or their own abortion agenda. I find it to be appalling. They are willing to sweep away the health and safety considerations, which the President has raised in this letter and which I have raised here today, of all pregnant women who come to the family planning clinics under title X. Really for what reason? Just to push their pro-abortion agenda. To me, I think that is appalling.

They will do it with such cutesy phrases as "the gag rule." There is no "gag rule" here of any physician. A lot of us worked to make sure that the President issued this letter that the regulations clarified. Frankly, he has done so, and I think this solves the problem.

I urge that my colleagues support the wall of separation between family planning and abortion by voting no on this conference report.

Be that as it may, I think the President is on sound ethical and moral grounds in his approach to this, and sound physical and medical grounds as well. All too often, family planning clinics have become major referral clinics for abortion—not in all cases, and certainly many family planning clinics should not be maligned in this manner. There are some that are doing this, and some that have become major proponents of abortion over every other decision that a woman can make.

Frankly, that is what this debate is all about. That is what the President is fighting for. I have no doubt that when this conference report passes, the President is going to veto it precisely because of allowing people who are not competent to make these recommended referrals of pregnant women, and I am confident that that veto will be sustained.

So instead of having a clean-cut, formally authorized family planning bill, which I think the distinguished Senator from Massachusetts and I would agree on, but because of this one provision, this desire to let almost anybody refer for abortion, this conference report will be vetoed and that veto will be sustained.

I also state that I value—as I always have—the work of social workers. When I started in college, I was going to become a sociologist. Frankly, I have had an interest in it ever since. I understand that social workers do a tremendous job in our society today, and there is no question about nurses and nurse practitioners do a tremendous job. I value them and what they do. I value their training and their skills. I value the volunteer workers in these clinics.

There are a lost of sincere, dedicated volunteers that really do not want to get involved in the abortion debate themselves. I value the work the volunteers do in these clinics. But I also value them in total, in the total context and scope of their training and expertise. When we debated this originally, it was a little less than clear that physicians would be able to refer, physicians would be stopped from being able to talk to their patients, and this might lead to some medical liability, possibly; a myriad of problems that arose in the eyes of some because of that interpretation of the rules. But today, that is not the case.

We are looking at a Presidential order that basically says that physicians can freely counsel their patients. They have the full right of free speech and the full right to counsel, and we hope that that matter has been resolved.

I think this does resolve it. On the other hand, if we go the route of this conference report, then almost anybody in a family planning clinic—I

guess anybody— under this conference report would be able to refer for abortion. We get back into the moral and ethical dilemma that really bothers this body all too much when we have so many other important things to do.

I appreciate the distinguished Senator from Massachusetts and his efforts to do a bill on family planning and, of course, to reauthorize this legislation. I wish I could go right down the line with him, because we agree with everything in the bill except for these few provisions—these few provisions that I have been chatting about, which I think are largely cured by President Bush's Executive Order here.

Mr. President, I cannot stay very long today, but I believe that it is important that these principles be articulated, the president's approach be explained, and I hope this will be enough for many here in this body, who are as sincere as I am about the family planning program and its reauthorization, to vote against this particular conference report. Thank you, Mr. President.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 33 minutes remaining.

Mr. KENNEDY. Mr. President, I yield such time as I might use.

Mr. President, it is important that the membership should understand exactly where we are with regard to the gag rule regulations. They have effectively been stayed by the courts, and at the present time, they are not in effect. They will go into effect, though, on September 23, 9 days from now. That is why it is important that we act on this measure, hopefully today, so that we can provide guidance to the clinics all over this country, so they can be in compliance with the law. That is why we welcome the fact that the majority leader has scheduled this matter for resolution at the present time.

So the gag rule goes into effect on September 23. Now we have heard an explanation from my friend and colleague from Utah about the Bush directive supposedly clarifying the earlier gag rule provisions. He has described them on the floor. I would like to also comment on that directive.

Last November, the President tried to muffle the widespread opposition to the gag rule by issuing a directive to the Department of Health and Human Services, supposedly intended to clarify the gag rule regulations. Instead, the Bush directive has caused confusion and more litigation over the gag rule. The directive is deliberately ambiguous. It states that nothing in the gag rule regulation is intended "to prevent a woman from receiving complete medical information about her condition from a physician." The administration contends that under this directive title X physicians can counsel women about abortion, but other health practitioners cannot.

This is what the U.S. district court stated about the administration's directive, in the case of National Family Planning, plaintiffs versus Louis Sullivan. I will include the whole order in the RECORD, but let me just mention this part of the order. It reads:

> In allowing only doctors to provide medical advice concerning abortion and in excluding nurse practitioners from their historical role in the program, the 1991 directives impose new requirements and responsibilities on physicians and also limit the current role of nurse practitioners.

We have never had any information that there will be abuses by nurse practitioners or other professionals. The fact is that whoever under the existing law was going to provide information to anyone that requested it had to be a licensed professional. And we have never had any indication that there were abuses by those professionals.

To the contrary, we heard overwhelming evidence that in many, many instances nurse practitioners had a sensitivity and understanding of some of the complex emotional and physical problems that women were facing. For example, in many instances particular women who might have been abused would be willing to share their particular experiences with an experienced nurse practitioner, rather than a male doctor.

But, nonetheless, during the course of the hearings in the House and Senate it has never really been maintained that the nurse practitioners were not doing an excellent job. But the administration's directive refers to only doctors being eligible to provide information. The U.S. district court ruled that "the 1991 directives are clearly legislative rules not merely 'interpretative' statements of the existing statute and regulations."

As such, the court ruled, "the defendant must adhere to the Administrative Procedures Act's notice and comment procedures, which are codified at 5 U.S.C. 553."

So what the court is saying is that the step which HHS has taken, after the initial promulgation of regulations, clearly is in violation of the Administrative Procedures Act. That is, the administration has not followed the procedures by which they have to go out and get public comments, for example from different professional groups.

The court also held that it "agrees with the plaintiffs that the actions taken by the President and the Secretary are arbitrary and capricious in that the directives limit the members of plaintiffs' organizations from the practice of their profession and may very well have the practical effect of denying essential services to low-income recipient under this essential program, in which approximately 33,000 grantees provide assistance each year to at least 200,000 women with diagnosed pregnancies. The record does not provide a reasonable analysis supporting the distinction made by the defendant between doctors and nurse practitioners in the provision of medical advice."

Here we have a completely inappropriate promulgation of a regulation that far exceeds what the legislation provided and then in the firestorm that came afterward a redefinition of that regulation, found by a district court as not complying with the administrative procedures law. Nonetheless, unless we are going to take some action, the regulation is still going to go into effect this month. That is why it is so necessary that we take this action today.

Now, as I mentioned, the gag rule regulation is intended to prevent a woman from receiving complete medical information about her condition from a physician. The administration contends that under the directive, a title X physician can counsel women about abortion but other health practitioners cannot. The directive caused great uncertainty for two reasons: First, the words of directive are so vague and it is unclear what they mean.

It is unclear, for example, whether the words "complete medical information" will encompass abortion counseling. We heard even recently the words "they can get complete medical information." But the question is does that encompass abortion counseling and if it does then why do not we say that, or why does not the administration say it does. It is vague and indefinite. The directive says physicians may refer women for abortion if there is a medical problem but it is unclear how broad that phrase is intended to be.

Are we talking about physical problems or are we talking about mental problems? What conditions will be established in terms of physical or mental problems that allow for abortion referral? It is an enormously complex issue and it is very, very quickly dismissed.

Second, the directive does not have the force of law as I mentioned, because it was not issued pursuant to the Administrative Procedure Act.

Even if the directive stated clearly that the physician may counsel and refer women for abortion, even if the administration issued the directive in the proper fashion, the fundamental problem with the gag rule still exists. The fact is clinics cannot have physicians counsel every woman who comes in for service. That is the bottom line. If you require that only physicians counsel you are dramatically reducing the consultation that would be available and effectively denying hundreds

of thousands of low-income women information.

It is clearly a way to undermine the real thrust of the legislation and that would be its practical effect. The primary counseling responsibility is frequently entrusted, as I mentioned earlier, to other health professionals such as nurses, social workers, and other health care professionals licensed by the State.

Individuals who serve in these capacities are certified, licensed, and highly capable. There is no reason to distinguish them from physicians when it comes to counseling. The same Federal court which found the Bush directive improperly issued also found the administration distinction between physicians and health care professionals arbitrary and capricious. Here we have the finding by Federal district court the rationale of HHS arbitrary and capricious. It certainly is.

The President directive put an ambiguous gloss on the regulations. Importantly it did not lift the gag rule on physicians and certainly did not lift the gag rule on nurses, social workers, and other clinic professionals. All the legal confusion created by the 1991 directive is just another reason why the passage of the conference report is absolutely essential. Let us get the clinics out of the court so they can continue to provide high quality care to millions of American women.

Mr. President, I hope that we have the opportunity to move ahead on this very important legislation that relates to the whole question of medical ethics, that relates to the whole question of free speech, that relate to the whole question of physician and patient relationship.

We ought to let that relationship be guided by the ethics of the medical profession, the high standards of the medical profession, and we ought to keep the Federal Government out of that particular relationship.

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

The PRESIDING OFFICER (Mr. DECONCINI). Who yields time?

The Senator from New Hampshire.

Mr. SMITH. Mr. President, I rise in opposition to S. 323, the conference report on the title X bill and will try to give some support to my colleague, Senator HATCH, who was out here all alone fighting the good fight on behalf of unborn children.

It is interesting that my colleague from Massachusetts talks about free speech. There are millions of youngsters that never get a chance to speak as a result of abortions and, quite frankly, if they could speak, it might be interesting to hear what they should have to say. Contrary to the somewhat hysterical rhetoric that has surrounded this issue, the question here is not censorship at all. It is not censorship in terms of the so-called gag rule. The question is whether the taxpayers of the United States of America can place restrictions on the uses of the money that they provide this Government to spend. That is the issue, pure and simple.

They have said over and over again that they do not want their tax dollars spent on Federal funding of abortions. They made that very clear. And yet the debate continues in this very political time that we are in.

The title X regulations were originally proposed in response to basically a fraudulent shell game perpetuated by many title X recipients. Prohibited by section 1008 of the Public Health Services Act from using Federal money for abortions, many recipients set up two shell operations, frequently the same building, Mr. President.

The first operation would receive Federal funds and interview pregnant women. This organization would then refer the pregnant women down the hall, frequently the next door to a second organization which would perform the abortion. That was very convenient, very cozy. Suffice it to say that both organizations would be operated by the same group of people. That may not be the case in every case in every building but it does happen and it is wrong.

What are we afraid of? Why are we afraid to provide counseling, the other way counseling, to save a life rather than to take a life?

Mr. President, we would not tolerate this fraudulent behavior in connection with any other Federal program, and we should not tolerate it here. That is the issue.

After today, it is my understanding there certainly will be fewer than 20 voting days of Senate session before we go out for the campaigns. That figure may be as low as 13 days. We are already in the campaigns here, as you can tell.

During this time, we will be faced with some critical national questions, such as how to stimulate economic growth and continue to move this country out of a recession where people are losing their jobs; how to deal with a $4-trillion national debt that is mortgaging the future of our children; how to apportion money among the 12 out of 13 appropriations bills which have not yet been signed into law; how to create new jobs; and how to respond to a tragedy which has struck the Florida and Louisiana coasts.

With all of these national priorities that we have, today we are wasting precious time and energy debating an abortion bill which will never become law during this session of Congress, because the President is going to veto this bill. Everybody knows the President's position on this, and he is going to veto the bill.

So why are we doing this? We are doing this for political expediency, because some read the polls and we know that the issue does not cut very well with the people. So, therefore, let us bring this up and let us embarrass the President.

This same abortion issue, Mr. President, has been or will be tacked onto Labor-HHS. At least it is somewhat related there. It will be tacked onto the Defense bill—the Defense bill. We have abortion language in the Defense bill, so, hopefully by some of the partisans here, we can force the President to veto the Defense bill, a bill that he might like to have because of abortion language.

Also, Mr. President, the word is that it may be put on the emergency supplemental for the hurricane victims in Florida and Louisiana. Now that would be nice, would it not? That is what we ought to do. We ought to hold up aid to the hurricane victims in Florida and Louisiana so we can play politics on the abortion issue.

The American people need to see through, and I believe they do see through, what is going on there. It is outrageous.

The issue of abortion is a very big issue, and it is just as important as these other issues. But the position of the President of the United States is very clear on this issue. And to attach it on such things as aid to hurricane victims or to debate it over and over again in title X and in HHS, knowing full well that it is going to be vetoed, is simply a waste of time, No. 1, and No. 2, it is simply wrong, because we are not focusing on other issues that we ought to be debating here and now, where the President may need to get attention to and the Congress needs to get attention to immediately.

If the Senate leadership places the importance of economic recovery, tax relief, and debt reduction below the importance of repeated nonproductive debates like this, then I am confident there are some issues that some on this side of the aisle could bring up, Mr. President, that might be quite painful on their own.

Maybe they would like to have the death penalty laid down on the supplemental for Florida and Louisiana. How does that relate? Two can play the same game if we are going to play that kind of politics. This is no place for it. It ought not to be done. It should not be the case. But it is happening and the American people need to understand that it is happening.

The choice is up to the leadership, the Democratic leadership, Mr. President.

But, for my part, I recommend that we put garbage like this title X bill where it belongs—in the garbage can—and begin to focus on some of the problems that we need to focus on right now that are before the American people. And it is time to start now.

Mr. President, I yield the floor at this time.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I have two or three purposes in rising, Mr. President. One is to commend the distinguished Senator from New Hampshire for his very lucid and very candid remarks. He has put the matter in proper perspective. I also wish to commend my friend from Utah, Mr. HATCH, for his courageous defense of the unborn.

Mr. President, Senator SMITH has pinned the tail on the donkey. Now the donkey is kicking up his heels. He is doing everything he can to force this thing down the throats of the American people. In the name of election year politics, the Demcorats may succeed. But, as the Senator has said, the President will call their bluff and veto this bill—everybody knows it—even the senior Senator from Massachusetts.

In any case, the pending legislation is just another piece of antifamily legislation. That is all it is. The conference report on title X, S. 323, has been greased to sail through the Senate on a voice vote.

I may be the only one—I do not think I am—but Mr. President, I want it made clear right in the RECORD right now that this Senator is totally opposed to this legislation, because it is a farce, it is a fraud, it is election-year high jinx, it is a crass effort to put the President of the United States on the spot.

Senator HATCH has eloquently touched on the so-called gag rule and other hot button issues surrounding this legislation, and the Senator from New Hamsphire has done the same. I am not going to go over the ground that they have covered.

I simply hope and pray that the American people understand that this bill is not really about family planning. Not at all. What it is about is whether the taxpayers should pump another $150 million into clinics that funnel teenage girls to abortionists without the girls' parents knowing anything about their plight. That is all it is. That is what this is all about.

Mr. President, for 22 years now, Planned Parenthood has been engaged in an experiment, an experiment which has been an abysmal failure. There is absolutely nothing to support the contention that Federal family planning programs have reduced teenage pregnancies or abortion rates, which, by the way, now exceed 400,000 per year for girls ages 15 through 19.

Clearly, the Federal Government has absolutely no business coming between these children and their families in order to substitute the Government's value system for that of the American family.

A lot is being said about the family this year. Most of it is true. But the fact is that the American family is rapidly disappearing. Fifteen million American children are growing up today without a father; one-fourth of all the live births occur out of wedlock. The number of divorces has now reached 1.2 million per year. These numbers represent the greatest social catastrophe in our history.

The disintegration of the family is a prime cause of crime and drug abuse and is the best explanation for the crisis we have reached in education and the continuance of poverty despite the largess of the welfare state. Combine this with our acceptance of violence an pornography in our everyday lives, and you see why we are fast becoming a new Rome.

Mr. President, it is no accident that the totalitarian tyrants of this century have tried to destroy the family unit. From Moscow to Havana, the prophets of government planning have deliberately crushed the family and replaced the authority of the family unit with the power of the tightly controlled party bureaucracy.

Where the family withers away, government moves forward and finally dictates. Our families are withering away under the pressure of constant government interference.

Mr. President, if there is a more destructive Federal family program than title X, I'm hard pressed to find it.

So I am delighted to stand with patriots like my friend from New Hampshire, like ORRIN HATCH, and others. We may lose, but sometimes you win by losing. Sooner or later, the American people are going to say enough is enough and stop the killing.

I came to the floor this afternoon to thank my dear friend for standing up to be counted. Not a lot of people are willing to do that, but he is, and ORRIN HATCH is. I am glad to stand with you.

Mr. SMITH. Will my colleague yield?

Mr. HELMS. You bet. I will be glad to yield.

Mr. SMITH. Mr. President, I just want to say to my colleague from North Carolina, it is great to have him back on the floor of the Senate. We have missed him and we look forward to his being here for a long time, and assisting us with these issues.

I know that he is one who has stood here many times alone—sometimes with one or two—to take on issues that may not have been popular, as they might say, in this body. But I know that he believes that when he casts his vote, he does not look around to see who else is voting one particular way. He casts his vote on what he thinks is right, and then he lets it stand. It if happens to be 99 to 1, so be it.

I respect the Senator very much for that. He is a true leader, and he certainly has been a friend of the unborn children who are affected by this legislation for many, many years, long before I came on the scene. Win or lose, if we are two or three, Senator HELMS and Senator HATCH and myself, so be it.

But I am proud to stand here and support unborn children. I make no excuses for it. I think history someday will judge us, and they will judge us. And I think they are going to judge us as being right. And we have more important things to do, as I tried to point out in my remarks—more important things to do in this country—than take the lives of unborn children. We have listed just a few of them in the debate here, but there are a lot more.

Whatever a person's circumstance may be, poor or rich or whatever, when in some unfortunate situation it does not give one the right to take an unborn child's life. The taxpayers have said that very clearly over and over again, in election after election: They do not support Federal funding for abortion. I think the majority of the people in this body understand that and know that. Yet it still continues to surface on bill after bill after bill, even when the issue is not germane to the piece of legislation that is at hand.

I respect the Senator and want to commend him for his great leadership. I am proud to follow in those big footsteps of his.

Mr. HELMS. Mr. President, I thank my friend. He is far too generous. But it means a great deal to me that he would say the things that he said.

While he was speaking, I was thinking about how it is not difficult—at least it is not difficult for me or BOB SMITH or ORRIN HATCH—to stand up for the most defenseless humanity imaginable, the unborn children. It seems to me that these people who want to kill them ought to take on somebody their own size.

I remember, when I decided reluctantly to run for a fourth term in 1990, we had a big dinner in Raleigh, and some 2,500 or 3,000 people—I do not remember exactly how many—turned out. My campaign advisers wanted to advise me how to run the campaign. Sometimes these advisers are more political than the candidate. They were willing and anxious for me to compromise on issues about which I could not compromise. Abortion was one of them.

So I wrote a little announcement speech that afternoon, and I would not let anybody see it. The first thing I did at the dinner was bring out the members of the Helms family. There gets to be more and more of them every year. We are going to repopulate the Earth if we keep on. But I had all the children and their spouses and all the grandchildren come up to the podium.

I told the people in Raleigh: If I run, you get these, too. There was great applause for that. Then I mentioned some of the things that I intended to continue to stand for, and I remember saying: If staying in the U.S. Senate requires me to turn my back on the most helpless, most defenseless humanity imaginable, that price is too high. I

said: If you want me to serve another term in the Senate, just bear in mind that I am not going to waver 1 inch on the question of abortion. I am opposed to it because it is the deliberate termination of the most innocent and most precious gift the Lord can give us.

The campaign started then, I say to my friend from New Hampshire. And then the liberals invaded North Carolina. And in came NARAL, Hollywood and the so-called people for the American Way. They had the phone banks and information centers everywhere, group after group of the most militant leftwing organizations imaginable. Once they came in, of course, the newspapers began to publish their polls forecasting my sure defeat.

I have always contended that, at least in North Carolina—I do not know about anybody else's State, but in North Carolina—I am sure the newspaper polls are taken in their own newsrooms and in their own editorial offices. Because they did not coincide at all with what our own polls were showing. The newspapers said the people of North Carolina would say no to life.

We did not release our polls. The liberals were all ready, on election day, to say "By-By, Birdie" to Jesse Helms. Somebody told me there were 37 televisions trucks, remote trucks, out there in the hotel parking lot that night, all set to tell the world about this old, mean-spirited guy from North Carolina who has finally bitten the dust.

Well, it did not quite work out that way. There were a few more people than they counted on who do not believe it is right to kill innocent, unborn children. There were a few more people than they had counted on who supported other conservative issues.

So if I have one message to conservative political people, it is to stick with your principles, because what is so bad about losing if you lose in a cause in which you fervently believe?

Mr. President, that Senator standing right there, the junior Senator from New Hampshire, is an example of what I mean. I am thankful he is in the Senate, and I am proud to be on the same team with him, and with him I vehemently oppose S. 323.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The time of the opposition has expired.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 22 minutes.

Mr. KENNEDY. Mr. President, I yield myself such time as I may use.

Mr. President, we have been around here, many of us, long enough to understand one of the familiar techniques used on the Senate floor, and that is to misrepresent and distort what is in the legislation, and then differ with it. It is an old technique. It is often used here on the floor of the U.S. Senate, and it has been used here this afternoon.

The idea that some clinics perform abortions using an artificial division between the title X money and the abortion clinic is just factually not so. Both the General Accounting Office and the inspector general of HHS have found that this was not true. These allegations, these charges have been made year in and year out.

I can remember when the Secretary of HHS, Secretary Heckler, who served in a Republican administration, and was a Republican herself, came before our committee and was challenged about this time in and time out. And she indicated that there was compliance with the Public Health Service Act. There is no evidence that was either presented during the course of this debate or in the course of those hearings that would indicate that there has been any violation of the relevant law.

So this is really about how we are going to prevent unintended pregnancies, how we are going to avoid the circumstances under which abortions might take place. As I stated earlier, it has been demonstrated again and again that if these services were not available, we would be facing dramatically increased numbers of abortions.

Mr. President, I was interested to hear my Republican colleagues claim that this is politics as usual. The interesting thing is that George Bush used to support family planning. This was a program that he supported in the House of Representatives. This was a program that he fought for, he spoke for in the House of Representatives. It is a program that was in effect for some 18 years during Democrat and Republican administrations where we did not see the politicization of this program. It was only in 1988, in the final days of the Reagan administration, that we had the promulgation of the gag rule. The program had been in effect under President Nixon, and President Ford, both Republicans. It just went along underfunded, not meeting the needs, but nonetheless outside of the whole dialog we are having in the Senate on the question of abortion. Family planning was outside the abortion debate because they are not related.

Basically, when we talk about family planning we are talking about preventive services, not just in terms of reproduction but in terms of a whole range of preventive services offered to women in these clinics.

Finally, Mr. President, it is so interesting to me to hear my good friend from New Hampshire talk about why are we doing this when we have so much else to do. Well, why are the Republicans filibustering the reform of elementary and secondary education? We will be here on the floor of the Senate tomorrow morning to try to invoke cloture on that bill. We hear on the one hand, all weekend long, about how this President wants to be the education President. We want to pass the bill that was passed overwhelmingly in the Senate. Now we are facing a filibuster. Come on.

We cannot get a rollcall vote on the family leave bill. Come on. The President spoke about it in the course of his last campaign. That was not politics, no. You could be for family leave 4 years ago, and after you have reversed your position, when the Congress is trying to pass this as a public policy, no, that is not politics. The American people understand.

If we are to follow the logic of my friends and colleagues in these matters, we might as well adjourn now. If you agree with the President, you are a statesman; if you are opposed, you are a politician. Mr. President, that just does not stand up on the basis of the record.

I could engage in further debate on this issue. But I think the Members are familiar enough with it. We have debated it, discussed it on a number of different occasions. Family planning legislation and the gag rule have been before this body time and time again.

This program may not make a great deal of difference to some around here, but it makes an enormous difference to needy women in this country, enormous difference to those in urban areas and those in rural communities, an enormous difference in terms of their lives and their futures and their families.

We believe this is legislation that can and should be accepted. We are quite prepared to go forward on this legislation. We appreciate the scheduling of the bill, and I hope we will pass this legislation today and move ahead to our education legislation tomorrow.

Mr. President, I suggest the absence of a quorum. I ask that the time not be charged to the proponents of the bill.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MITCHELL. Mr. President, I urge my colleagues to support S. 323, the Pregnancy Counseling Act of 1992 to reauthorize the title X family planning programs.

This bill will reauthorize family planning programs for the first time in 7 years. Most of us know that the family planning clinics in our States do a great deal more than dispense birth control pills: They provide primary health care screening for low-income women for cancers of the reproductive

system, sexually transmitted diseases which can cause birth abnormalities, and health risks exacerbated by pregnancy.

This legislation is fundamental to the primary health care of hundreds of thousands of low-income women around the Nation. It deserves the support of everyone concerned about health care in this country.

The bill will also repeal the gag rule.

Family planning clinics since their inception more than two decades ago have not funded, financed, or pushed abortion.

They have provided counseling to women with crisis pregnancies. They provide information and referral services for women seeking to carry their pregnancies to term and they have provided similar information to women choosing not to do so.

Neutral, nondirective counseling about pregnancy is what every woman rightly expects from her own physician. It is what low-income women should have available to them, as well.

The gag rule does not reflect congressional intent. It reflects Reagan-Bush political efforts to placate opponents of reproductive rights. In the Rust versus Sullivan Supreme Court decision, a 5-4 majority found that the absence of positive congressional statement to the contrary constituted a situation in which those political efforts could supersede the plain sense of the law.

Clearly, the majority of the Court was wrong. The majority misread congressional intent and it is the duty of the Congress to rectify that misreading by making congressional intent so clear that it cannot in the future be misunderstood. This is what the bill before us does.

Congress has never indicated an intention to limit or censor information for those using the public health care system. Congress has never had an intention of providing for second-class care for one group of people compared with another.

That is what the gag rule creates—a second-class system of care for poorer women, where information is censored about a woman's own health care and her own options.

The bill repeals the gag rule and reinstates the right of family planning clinics to provide honest, full, and nondirective counseling to all women with respect to pregnancy. It does nothing more than restore the situation that has existed throughout most of the time title X has been law.

Last year, in response to broad public and medical outrage over the gag rule, the President announced a modification of the regulations to permit physicians to counsel on all options in pregnancy.

However, it is not clear that the administration has the right to unilaterally alter regulations which have the force of law without going through a regulatory process.

But, more importantly, of course, the change is no change at all. The President says his change means that clinic patients will now continue to have access to it. That is not the case. Most clinics operate under cost constraints that make it impossible for them to pay a physician to be on the staff full-time. Instead, health screening, counseling and other services are provided by qualified medical professionals who are not physicians. So changing it to permit only physicians to counsel on all options in pregnancy still effectively denies that counseling to the overwhelming majority of poor women who use the clinics.

The opponents of family planning know this. That is why they did not object to the President's changing the regulations. They did not object because they knew the change would have no practical effect.

That is why legislative repeal of the gag rule remains essential. So long as the gag rule is in place, trained health professionals will be faced with the risk of loss of clinic funds if they provide honest, comprehensive, health care information and risk of serious patient harm if they do not.

It is no accident that the majority of health professionals facing those risks under the Bush gag rule will be women. This administration has consistently demonstrated a lack of understanding and concern about the most fundamental facts of reproductive health, of women's lives, of working women, and low-income women. The creation of an artificial dilemma for health care professionals who are disproportionately women, which is what the gag rule as modified by President Bush achieves, is continued evidence that this administration is completely out of touch with the issues that affect women's working lives as well as their private lives.

The fact is that the choice of an abortion in the first two trimesters is a legal choice for American women today. A conservative Supreme Court recently reaffirmed that right.

I understand that some of my colleagues wish that this were not the case. Nonetheless, it is. So long as a medical procedure is legal, it is unconscionable for a political minority to require health professionals to withhold information about it from their patients.

Funding for title X programs has suffered under the Reagan and Bush administrations. In 1980, $162 million was appropriated for title X. By 1992, funding had dropped to $150 million. At a time of escalating health care costs, general inflation, widespread joblessness, and the accompanying lack of health insurance, family planning clinics are already stretched thin.

In fiscal 1991, clinics served over 4 million patients—for the most part, low-income women whose health needs would otherwise be served by hospital emergency rooms, other overloaded public health clinics and the skimpy network of health care resources that poor people are forced to use.

Title X is a successful and important program for ensuring that Americans have access to reproductive health services regardless of their income.

Title X programs help prevent unwanted pregnancies, the underlying factor in almost all abortions.

Regardless of individual views on abortion, everyone in this Senate should be able to agree that preventing unwanted pregnancies is a better way of reducing abortions than attacking clinic patients or holding political rallies.

Yet, opponents of this legislation have, for a decade, tried to frame it as a debate over encouraging abortion. This is a smokescreen. This bill does nothing to encourage abortions; it provides fundamental reproductive health services to low-income American women.

The family planning legislation was first enacted in 1970. Neither then, nor since, have family planning dollars been used for abortions.

Almost a decade of hunting in the records and finances of family planning clinics by critics determined to find illegal use of Federal funds failed to turn up even a single instance of funding misuse.

Yet the drumbeat of misinformation continues unabated. The gag rule is just the most recent manifestation of this.

The gag rule deserves repeal.

I urge my colleagues to vote for this bill and repeal the gag rule.

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

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

Mr. WIRTH. Mr. President, I rise today to express my strong support for the reauthorization of the title X Family Planning Program. In addition to extending critically important title X family planning programs for 5 years, it overturns the so-called gag rule which would prevent health care professionals from answering questions and providing full information to women facing unintended pregnancies. This bill will enable the Federal Government to assist in providing women with all the information they need to make responsible decisions about their reproductive health.

Mr. President, since 1988 we have put women's health at risk with an extended and convoluted debate about the gag rule. Millions of Americans were outraged by the Supreme Court's

Rust versus Sullivan decision that upheld the gag rule because it, in effect, institutionalized medical malpractice. The regulation says that we have a Government that prohibits medical professionals from discussing with their patients not only their rights, but what procedures may be in their best interest.

The Rust decision upholds the administration's plan to promote its own policy at the expense of informed decisionmaking. This country would not stand for a government that prohibits a physician from telling a woman all her legal options for treating breast cancer. This country cannot stand for a government that prohibits a physician from telling a woman all her legal options about her pregnancy.

Mr. President, I have to say on the face of it, I am perplexed that this administration would continue to pursue this misguided policy. On one hand, most of the policies advocated by the President are geared toward eliminating Government oversight and regulation. But on the other hand—the hand that we must once again deal with today—he is advocating that the Government intrude into the lives of its citizens and make decisions about reproductive health that a woman should make for herself. To my way of thinking, this is as wrong a policy as there can be.

In its decision, the Supreme Court also upheld the administration's notion that proper and adequate health care is something available only to the monied in this country. If a woman works hard yet still requires Federal assistance to meet her health care needs, she simply won't have access to the same level of care that others do.

She is not allowed the opportunity to know what her options are, what the ramifications of her decision may be, or how her mental or physical well-being may be affected. Mr. President, it is an outrage that our Government would promote two types of medical care—limited and censored for the poor and proper and adequate for all others. Evidently, the Supreme Court believes that only women who can afford private health care are entitled to make educated decisions. Is this equal justice? Very simply, it is not, and we must change this policy.

The family planning amendments that we are considering today reauthorize the critical grants to agencies to provide these essential services and to continue technical assistance and training for clinic personnel. Additionally, providing support for community-based information and education programs will enable more and more women to learn about comprehensive family planning, basic health screening and preventative health services and practices available to them.

In my State of Colorado, more than 50,000 women obtain family planning and reproductive health services each year from private nonprofit clinics, hospitals, and public health clinics that receive title X grants. Without these critical funds, these organizations would be unable to meet these essential needs.

These programs, as are all prevention programs, are extremely cost-effective, as well as good practice. In fact, a recent report by the Center for Population Options said the U.S. Government paid more than $21 billion in food stamps, Aid to Families with Dependent Children—welfare—and Medicaid benefits for families in which the first child was born when the mother was a teenager. The study also indicated that about one-third of all families that started with a teenage birth has ended up on public assistance. Certainly we cannot assert that all these pregnancies were preventable—some of these teens most certainly wanted to have a child. But we cannot ignore the immense costs brought on to our country to support low-income families. I would argue that the modest $180 million investment made in family planning services that this bill authorizes would be a dramatic step in reducing the enormous investment in supporting children of teen mothers.

Unfortunately, support for title X has often gotten tangled up in the emotional abortion issue in this country. What we all must understand is that providing effective and extensive family planning services is the most logical road to take to avoid the need to terminate a pregnancy. I strongly believe that counseling more women and sexually active teenagers on the variety of means to avoid pregnancy is what we should be emphasizing and supporting.

The legislation specifically addresses the issue of minors' access to abortions. The legislation clearly states that no entity that performs abortions is eligible for title X funding unless it has certified that it is in compliance with State law regarding parental notification consent for the performance of an abortion on a minor. No Federal standard applies as the bill defers to each State government.

It should not go unsaid here today that we must support programs at home and abroad to stabilize our population. Because of our Nation's high resource consumption and pollution production levels, we need to stabilize our country's population as soon as possible. Providing family planning services to all women, regardless of their income levels, is an obvious step that we should take.

I believe title X family programs must be continued because they represent the only avenue many low-income families have of achieving true economic and reproductive freedom. These services, which have literally prevented millions of abortions by offering a full range of options in making reproductive choices, have enjoyed substantial bipartisan support in both Houses of Congress, and I hope the Senate will see fit to continue that support today.

The political arguments must be set aside and we must consider the relationship between a woman and her health care provider, free speech, and the health of our society. I urge my colleagues to support this conference agreement. We have before us an opportunity—again—to right a wrong and fill a void created by the administration. Let's act on it.

(At the request of Senator MITCHELL, the following statement was ordered to be printed in the RECORD:)

• Mr. DODD. Mr. President, I rise today in support of the conference report for the reauthorization of the title X Family Planning Program, S. 323. Failure to reauthorize this measure will deny millions of women high quality reproductive health care services and preserve the controversial gag rule, which bars federally funded health care clinics from providing information on abortions.

The title X program authorizes grants to nonprofit organizations for the provision of family planning services for nearly 5 million women in this country. Connecticut alone serves more than 50,000 women each year. In addition to providing access to safe, effective, and low-cost contraception and family planning services, title X funds screening for cervical and breast cancer, sexually transmitted disease, anemia, hypertension, and diabetes. For many women these services are the only health care available to them.

The health care and family planning services that title X programs provide are critical in this day and age. Each year these services prevent 1.2 million unintended pregnancies, which will, in turn, reduce the number of abortions performed. It provides vital information and counseling on the HIV virus which is appearing with greater frequency among women. For every dollar spent on federally funded family planning services taxpayers save $4.40 on health and welfare costs. Overall, title X services improve the health of mothers and children, help reduce poverty, and break the cycle of dependency.

Unfortunately, for the past 4 years title X has been the object of scrutiny and debate. In 1988, the Reagan/Bush administration adopted a provision referred to as the gag rule that prevents federally funded title X clinics from providing complete, nonbiased information on reproductive health care.

These regulations pose a serious threat to the ethics that guide health care providers, as well as to the basic principles by which our Nation is defined. Restricting or limiting the amount of information that can be discussed at a federally funded clinic is an

infringement on a woman's relationship with her doctor. It also conflicts with a doctor's duty to a patient. However, rather than compromise their judgment and arbitrarily restrict their advice, many facilities have opted to forgo title X funding which will force them to close or reduce their services available.

We cannot delay funding for this measure any longer. Not only does it provide essential family planning services to young and low-income women, but it provides support for the social workers, public health nurses, child care workers, counselors and case workers who confront some of our society's most difficult problems.

Reauthorization of the title X Family Planning Program will guarantee women the health care services and information that they require to make informed, responsible decisions about their health and the health of their children. I urge my colleagues to vote in favor of the conference report today to reverse the gag rule and the onerous restrictions it imposes.●

Mr. BRADLEY. Mr. President, I rise in support of this legislation to state clearly that women who are seeking medical advice are entitled to the best help that medical professionals can offer, unrestricted by anyone's political agenda.

Congress determined that adequate family planning services were in the Nation's interest. Accordingly, a program was established under title X of the Public Health Service Act to provide contraceptive information and services in order to help lower the incidence of unintended pregnancy, improve maternal and infant health, and reduce the incidence of abortion. The law provides that no abortion may be provided with title X funds and both the GAO and Secretaries of HHS have certified that no Federal funds have been utilized for those purposes.

Yet, year after year these programs are blocked, hindered, diluted, or filibustered, not because they are not needed, not because they do not work, but because of an ideological faction that wrongly sees these programs as a battleground against a woman's right to choose a safe and legal abortion.

But, Mr. President, the services the Government should be providing in these programs are safe, unbiased, health services. We should not be using taxpayer dollars to promote anyone's political agenda. Politics has no place shaping what a doctor may or may not say to a woman seeking sound medical advice. Yet, that is precisely what the current regulations, insisted upon by the administration and consistently rejected by Congress, provide.

It is a sad irony that the family planning information established under these programs is supposed to give women knowledge about alternatives and choices that, if allowed to function without interference, will ultimately reduce the number of abortions. It will also reduce the number of low birthweight babies, the number of babies born to mothers who are not emotionally or financially prepared to give them a good life, and the number of children who die before their first birthdays.

Mr. President, we may not be willing right now to devote resources to a basic, cost-effective preventive health network to address grave problems of maternal and child health, but to deny women information—to prevent doctors from offering the best possible medical care—out of a misguided ideological crusade, is an outrage. I urge my colleagues to join me in strongly supporting S. 323, so that we can get on with the business of saving America's children. This legislation will clarify, beyond a shadow of a doubt, that Congress' intention was to help poor women get the best care available, so that their children will be born healthy and survive. To do so, we must let doctors speak freely and advise patients professionally about all their legal health options.

Mr. CHAFEE. Mr. President, I am pleased to support the legislation before us today, the title X Pregnancy Counseling Act of 1991. Passage of this legislation has been a long and often grueling process since I first introduced it as an amendment to a family planning bill in September 1990 and then as a freestanding bill in January 1991.

I doubt that there is a Member of Congress who is not already familiar with the onerous regulations which are the subject of this legislation, the so-called gag rule. These regulations, promulgated by the Department of Health and Human Services in 1988, forbid the discussion of abortion in family planning clinics which receive funding under title X of the Public Health Service Act. Prior to these regulations, a woman would go into a title X funded clinic, discover she was pregnant, ask about her options and would be told in a nondirective manner that she could carry the baby to term and keep the baby, she could put the baby up for adoption or foster care or she could terminate her pregnancy. In 1988, HHS decided to change the rules and, through these new regulations, prohibited clinic workers from telling pregnant women that abortion is one of their options.

Naturally, the clinics were outraged at these new rules, and lawsuits against their implementation were filed in three separate court cases. The case eventually went before the Supreme Court and, in a 5–4 decision in May 1991 the Court ruled that the regulations were in fact legal. This regrettable decision by the Supreme Court meant that it was up to Congress to overturn the gag rule through legislation. So, in July 1991, the Senate approved the measure that I introduced which is before us today. The House passed similar legislation. After my bill was approved by the Senate I entered into extensive negotiations with the administration to try to reach a compromise on this issue. Unfortunately, we were not able to come to a mutually acceptable agreement. In November, both Houses approved language in the fiscal year 1992 Labor-HHS appropriations bill which would have placed a 1-year moratorium on the implementation of the 1988 regulations. That bill was vetoed and we were unable to override the veto.

Due to further lawsuits by the National Family Planning and Reproductive Health Association [NFPRHA] which represents 90 percent of the family planning clinics in the country, the regulations have not yet been implemented. Despite the fact that there is a lawsuit currently on appeal which NFPRHA has already won once, HHS sent out a memorandum in August informing title X recipients that the deadline for compliance with the regulations is September 23, less than 2 weeks away. Passage of the conference report on S. 323 today is really our last chance to make these regulations go away.

I have taken the floor many times over the past 2 years to talk about why I think these regulations are such bad policy, why they are so terribly unfair to the low-income women in this country who rely on title X, sometimes as their only source of medical care. I have talked endlessly about the importance of title X and Federal support for family planning. And I have warned that if these regulations are in fact implemented that they will destroy the title X program, the only Federal program which is solely devoted to reducing the incidence of unintended pregnancy and consequently the need for abortion services. Many have told me I am wrong, that clinics will continue to keep their title X funds and will simply learn to live with the regulations.

Well, Mr. President, I don't know what clinics in your State have decided to do, but in my home State of Rhode Island, virtually all of the community health centers and the hospitals which receive these critical funds have decided that they are unable to comply with the regulations, so, will forego their title X funds. This means that low-income women in Rhode Island will have little, if any, access to family planning because, for all intents and purposes, there will not be a title X program in Rhode Island.

We are at the end of the road. It is hard for me to believe that it has taken us 5 years to get here, but that is the reality. We have an opportunity today to pass this conference report and preserve the title X program. The choice is simple: We can approve this bill and

get on with the business of providing critical family planning services to low-income women, or we can defeat this legislation and send a message to poor women that we believe that contraception is only for those who can afford to pay for it. I urge my colleagues to support this measure. Thank you, Mr. President.

Mr. SEYMOUR. Mr. President, I rise today in support of the title X family planning services which will provide the women of this country informative, professional counseling concerning all safe and legal, medical options concerning their unintended pregnancy.

Prior to the Reagan administration from 1971 through 1988, the Department of Health and Human Services required family planning clinics to include the option of abortion in their counseling. However, in 1988 the Department of Health and Human Services released regulations governing grants for family planning services, or simply, the gag rule language which reads:

> A title X project may not provide counseling concerning the use of abortion as a method of family planning or provide referral for abortion as a method of family planning. Once a client is diagnosed as pregnant, she must be referred for appropriate prenatal and/or social services.

Similarly, the title X project may not use referrals as an indirect means of encouraging or promoting abortion nor, may it be physically financially involved in abortion activities.

Quite simply, the gag rule is discrimination. Not only does this rule deny women full and complete information necessary to make an informed health care decision, but discriminates on the basis of women's financial status. These regulations create a two-tiered system of health care whereby low-income women using federally subsidized clinics receive more limited information and services than women who can afford private care services. The intent of the title X program was to provide low-income people with access to services they could not afford elsewhere, not to dissuade them from making informed decisions about family planning.

Family planning clinics are often the only health care service sought out by low-income women. As major providers of preventive health care services, these clinics have helped in early detection of breast and cervical cancer, various diseases such as AIDS, and other potentially dangerous illnesses. Each year, family planning clinics such as these prevent over 1.2 million unintended pregnancies which would result in 509,000 unwanted births and 516,000 abortions.

In these conservative economic times, we cannot afford to make unwise decisions. Let us not begin now. Every public dollar spent to provide contraceptive services saves $4.40 in first-year taxpayer funds that would otherwise go toward medical care, welfare, and other mandated social services—an overall total of $1.8 billion in savings annually.

In this respect, we should not force the women of this country to make uninformed, unwise decisions that will affect them for the rest of their lives. Decisions that may not only be financially devastating, but deadly. Therefore, I urge my colleagues to stand in support for this important legislation to ensure the health and welfare of all women in this country. I thank the Chair.

Mr. MITCHELL. Mr. President, on behalf of the managers of the bill, I yield back all remaining time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I am pleased that the Senate has by voice vote adopted legislation to repeal the notorious gag rule. I will not now restate the entire argument made prior to the vote. But I think it is important to understand that unless the gag rule is repealed there will be two standards of health care for American women.

There is not a member of this administration and not a Member of this Senate who would permit a daughter or a spouse to receive medical attention and medical advice in the circumstances and under conditions which the gag rule imposes on millions of poor American women. It is unconscionable that those in positions of wealth, position, and power, would impose upon others without wealth, position, or power, conditions of health care which they would not find acceptable for themselves and their families.

An American woman ought to have access to full and complete medical information about her condition no matter whose daughter she is or whose wife she is. A society like ours, based upon the fundamental principle of equality, ought not tolerate, let alone encourage, even less insist upon a system in which there are 2 standards of care: One for the wealthy, the affluent, the powerful; and another, lower standard, for the poor.

Every American woman is someone's daughter, someone's spouse, someone's sister, or someone's relative. And they have the same love and care for the members of their families that Members of this Senate, members of the administration, persons in the White House, and other persons in important positions throughout Government have. They ought to be able to know that their wives, their daughters, their nieces, and their sisters are going to get the same full information, despite those vast differences in wealth, position, and power.

So, Mr. President, I hope that the President will reverse his position and sign this legislation. That will be the best possible outcome for all concerned.

Mr. President, I yield the floor and 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. 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.

DESIGNATION OF IMMIGRATION JUDGES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 621, S. 2099, a bill to amend the Immigration and Nationality Act; that the Committee substitute be agreed to; that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table; that the title amendment be agreed to; and that any statements relative to the passage of this item be placed in the appropriate place in the RECORD.

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

So the bill (S. 2099), as amended, was deemed read the third time and passed as follows:

TITLE I—IMMIGRATION JUDGES

SEC. 101. DESIGNATION OF SPECIAL INQUIRY OFFICERS AS IMMIGRATION JUDGES.

(a) Section 101(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(4)) is amended by striking "special inquiry officer" each of the three places it appears and inserting in lieu thereof "immigration judges".

(b) Section 209(a)(2) of such Act (8 U.S.C. 1159(a)(2)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(c) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "special inquiry officers" and inserting "immigration judges".

(d) Section 235 of such Act (8 U.S.C. 1225) is amended—

(1) in subsection (a)—

(A) by striking "special inquiry officers" each of the three places it appears and inserting in lieu thereof "immigration judges"; and

(B) by striking "special inquiry officer" and inserting in lieu thereof "immigration judge"; and

(2) in subsection (b), by striking "a special inquiry officer" each of the two places it appears and inserting in lieu thereof "an immigration judge"; and

(3) in subsection (c)—

(A) by striking "the special inquiry officer" and inserting in lieu thereof "the immigration judge";

(B) by striking "a special inquiry officer" each of the three places it appears and inserting in lieu thereof "an immigration judge".

(e) Section 236 of such Act (8 U.S.C. 1226) is amended—

(1) by striking "special inquiry officer" each of the 10 places it appears and inserting in lieu thereof "immigration judge";

(2) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(3) by striking "a" after "decision of" each of the two places it appears and inserting in lieu thereof "an"; and

(4) by striking "A" and inserting in lieu thereof "An".

(f) Section 242(b) of such Act (8 U.S.C. 1252(b)) is amended—

(1) by striking "special inquiry officer" each of the five places it appears and inserting in lieu thereof "immigration judge";

(2) by striking "A" and inserting in lieu thereof "An";

(3) by striking "a" after "proceeding before" and inserting in lieu thereof "an"; and

(4) by striking "a" after "Proceedings before" and inserting in lieu thereof "an";

(g) Section 242B(1) of such Act (8 U.S.C. 1252b(d)(1)) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(h) Section 273(d) of such Act (8 U.S.C. 1323(d)) is amended by striking "special inquiry officers" and inserting in lieu thereof "immigration judges".

(i) Section 292 of such Act (8 U.S.C. 1362) is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(j) Section 4 of the joint resolution entitled "Joint resolution to enable the United States to participate in the resettlement of certain refugees, and for other purposes", approved July 14, 1960 (Public Law 86-648), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

(k) Section 2 of the Act entitled "An Act to authorize the creation of record of admission for permanent residence in the case of certain Hungarian refugees", approved July 25, 1958 (Public Law 85-559), is amended by striking "a special inquiry officer" and inserting in lieu thereof "an immigration judge".

SEC. 102. COMPENSATION FOR IMMIGRATION JUDGES.

(a) IN GENERAL.—Chapter 1 of the Immigration and Nationality Act (8 U.S.C. 1101-1105a) is amended by adding at the end thereof the following new section:

"COMPENSATION FOR IMMIGRATION JUDGES

"SEC. 107. (a) IMMIGRATION JUDGE SCHEDULE.—(1) For purposes of determining pay for immigration judges there shall be six rates of basic pay for immigration judges, under the Immigration Judge Schedule, the designation of which shall be 'IJ', and each immigration judge shall be paid at one of those rates in accordance with the provisions of this section. Each rate shall be calculated as a percentage of the rate of basic pay designated as "ES-5", as established and adjusted by the President for the Senior Executive Service under section 5382 of title 5, United States Code.

"(2) The 'IJ' designation for each rate of basic pay under the Immigration Judge Schedule and that rate of basic pay expressed as a percentage of the ES-5 rate of basic pay are as follows:

"(A) For IJ-1: 65 percent.

"(B) For IJ-2: 70 percent.

"(C) For IJ-3: 75 percent.

"(D) For IJ-4: 80 percent.

"(E) For IJ-5: 85 percent.

"(F) For IJ-6: 90 percent.

"(b) CONVERSION TO IMMIGRATION JUDGE SCHEDULE.—(1) The Attorney General shall determine which of the rates of basic pay shall be paid to each immigration judge and shall classify immigration judge positions by the rates of basic pay under the Immigration Judge Schedule. The rate of basic pay for each such immigration judge shall, upon the date of enactment of this section, be at least equal to the rate which was payable to that individual immediately before such date.

"(2)(A) Upon appointment, an immigration judge shall be paid at rate IJ-1, and shall be advanced successively to rates IJ-2, IJ-3, and IJ-4 upon completion of 52 weeks of service in the next lower rate, and to rates IJ-5 and IJ-6 upon completion of 104 weeks of service in the next lower rate.

"(B) Immigration judges receiving converted rates of basic pay under paragraph (1) shall be advanced successively to rates of basic pay under the Immigration Judge Schedule in accordance with this paragraph.

"(3) The Attorney General may provide for appointment of an immigration judge at an advanced rate of basic pay under such circumstances as the Attorney General may determine appropriate.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents for the Immigration and Nationality Act is amended by inserting after the item relating to section 106 the following new item:

"Sec. 107. Compensation for immigration judges.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect—

(1) October 1, 1992, or

(2) 30 days after the date of enactment of this Act,

whichever is later.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. MEMBERSHIP OF THE COMMISSION ON IMMIGRATION REFORM.

Section 141(a)(1) of the Immigration Act of 1990 (8 U.S.C. 1153 note) is amended—

(1) in the text above subparagraph (A), by striking "Effective" and all that follows through "9 members" and inserting "The Commission on Immigration Reform (hereafter in this section referred to as the 'Commission') shall be composed of 13 members";

(2) in paragraph (1)(B), by striking "Two" and inserting "Three";

(3) in paragraph (1)(C), by striking "Two" and inserting "Three";

(4) in paragraph (1)(D), by striking "Two" and inserting "Three"; and

(5) in paragraph (1)(E), by striking "Two" and inserting "Three".

SEC. 202. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED ABROAD.

Private Law 98-53 (8 U.S.C. 1101 note) is amended—

(1) in the title, by inserting "or by Beirut University College" after "Beirut"; and

(2) in the text, by inserting before the period at the end thereof the following: "or by Beirut University College".

The title was amended so as to read: "A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for the compensation of such judges, and for other purposes."

THE OLDER AMERICANS ACT

Mr. MITCHELL. Mr. President, I had hoped today that I would be able to, at this point in our proceedings, have by consent the Older Americans Act, S. 3008. That is legislation which is very important to millions of elderly Americans all across the country.

We have been struggling, trying hard to get approval to enact that legislation for several months. We have been prevented from doing so by objections from Republican Senators.

I raise the issue now because, in the last few days, I have begun receiving personal visits from Republican Senators and letters from Republican Senators urging me to proceed to act on the Older Americans Act. I am ready to proceed to it, but I am unable to proceed to it because of objections by other Republican Senators.

I feel the record should be clear in this regard so there can be no misunderstanding. On the one hand, some Republican Senators are making the request so as clearly to create the implication that it is I or other Members of the majority who are preventing action from occurring on the Older Americans Act.

And I make this public statement at this point so that there can be no misunderstanding about it.

We are ready to proceed to act finally on the Older Americans Act at this moment—and, if not now, tomorrow morning; and if not tomorrow morning, tomorrow evening—but we are prevented from doing so by objections by Republican Senators.

Therefore, I want the record to be clear so that, before any other Senators come to me or write me letters asking me to bring it up, they know why the legislation is being blocked. I hope that will not be the case much longer, and I hope that we are going to be able to get it passed, because it is a very important bill.

I have received a large number of requests from elderly Americans, organizations representing elderly Americans, and organizations concerned about and caring for elderly Americans, who stress the important of that legislation.

We want to pass it, and I am going to make this request every day until we do. If we are not able to do it, then it is my intention to break through this objection or this threatened filibuster by filing a cloture motion and having Senators vote on whether or not we should proceed to the bill. And then each Senator can be on record, here in public as opposed to private communication, as to whether or not that Senator wants to proceed to consider and vote upon and approve this important bill.

We are getting down to the end of the session and this is becoming a familiar tactic. And I will address it with respect to other legislation momentarily. But I wanted to make this point in view of the importance of this legislation, in view of the widespread interest, and in view of what appears to be a sudden upsurge in private contacts with me about proceeding on this bill.

And so I hope, Mr. President, to all of those who have expressed concern about the Older Americans Act, who know of its importance, that we are

going to be able to act soon and I pledge to them my continued full aggressive efforts to try to get that legislation completed before the Congress adjourns this year.

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

The PRESIDING OFFICER. (Mr. WOFFORD). 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.

THE PACIFIC NORTHWEST TIMBER INDUSTRY

Mr. WIRTH. Mr. President, President Bush was this afternoon in Oregon speaking about the timber old-growth/spotted owl issue, which has been a subject of some significant debate on the floor of the Senate and in the Energy and Natural Resources Committee over the last couple of years. I think now it would be appropriate this afternoon just to spend a few minutes setting the record straight.

The President made a great point that was timed for the Congress to act on a variety of initiatives. Which initiatives, I am not sure, because I do not think we have seen any initiative from the White House related to what ought to be done in the Pacific Northwest. But he said it is time for us to act.

The question which has to be asked is: Where has he been for the last 4 years? During this last 4-year period of time, some 46,000 jobs have been lost in the Pacific Northwest in the timber industry. Where was George Bush? He said it was time to act. Where was he?

During this period of time in 1990, for example, the Forest Service presented to the White House a comprehensive plan as to what ought to be done in the Pacific Northwest, which was rejected by the White House. Why did they not act? Where have they been?

When the issue of job retraining came up, Mr. President, it was rejected out of hand by the White House, in June of 1990, and again in April of 1991, one of precisely the sorts of things that has to be done. When the question of saying to the States, "Let us outlaw log exports" came up, where has the White House been? Nowhere. Where was the administration; what have they done? Nothing.

We are still, at this point, Mr. President, remarkably, the second largest timber-exporting country in the world, after Malaysia. If we are going to be the second largest timber-exporting country in the world, what we are doing is acting as a colony, particularly for the Japanese.

How does that work? We cut down and take out our natural resources and send them to Japan, the mother country. This is what used to happen in the 19th century. You took all your natural resources from a place like Africa, sent them to England, Germany, or Italy, added the value there, and the goods and services were sent back to the colonies to be sold. And the mother country makes a great deal of profit out of that. That is the old colonial model and precisely in part what we are doing now. We are taking our natural resources, sending them to the mother country, which is Japan, they are finished there; value is added there, and they are sent around the world, and the Japanese are making a great deal of money out of it. That is a wonderful colonial model, but this is the late 20th century, and we are the United States of America and should no longer be the colony.

The President does not understand that. He does not understand what is happening to us in timber and so many other resources that are being sent overseas where the value is being added. The issue is one of respect for the people who are working in the mills there, not allowing the mills to be shut down, but when we cut that timber, of which there is a very significant amount remaining, that timber stays here, the value gets added, and we are selling sophisticated wood products, furniture and so on, to the Germans and Japanese, not vice versa. He has it backwards. Not only has he got the economic model backwards, Mr. President, but he also has the history backwards. And when he says it is time for us to act, where has he been for the last 4 years?

That reminded me of a wonderful column that was written by a writer from the Denver Post on the 18th of July, this last summer, during the Democratic Convention. The title is: "Environmental President Wades Through Another Fish Story." I wanted to share that with my colleagues this after, so I will read it at this time:

George Bush, the environmental president, waded knee-deep into a Wyoming trout stream.

With a fly rod in his hand and the weight of a presidential campaign on his back, Bush was vacationing this week in the Cowboy State—and figuring out how to get himself re-elected.

While contemplating the vision thing, Bush decided to do the fishing thing.

It was a glorious day. The sky was blue, and the Wind River range provided a dramatic backdrop to the Pinedale, Wyo., ranch where Bush was staying. The pressures of the White House seemed a million miles away.

All he wanted was some trout.

As Bush forded a river bend, he basked in the mid-day beauty. Sunbeams played games atop the river current, making the water sparkle, shimmer and glow.

"A thousand points of light!" Bush exclaimed.

Unfortunately, a closer inspection showed that the river's luminescence actually was caused by a sheen of industrial chemicals. A few months earlier, a factory upstream from Bush's fishing hole was granted a special exemption from Clean Water Act pollution standards by Dan Quayle's Council on Competitiveness, and this river stretch now contained no trout.

Bush remained undaunted. A river this big must be chock-full of fish, he figured. It was just a matter of finding them.

A short hike later, Bush came upon another remarkable vista. For as far as he could see, the earth was barren and still.

It looked like the moon. But it really was a giant logging clear-cut in a national forest.

After promising to cut financial losses on federal timber operations, the Rocky Mountain regional office of Bush's U.S. Forest Service actually increased them. Now the Forest Service is losing $11.4 million a year on logging operations.

Bush surveyed the big clear-cut. "Jobs, jobs, jobs," he said

The clear-cut had clogged Bush's trout stream with silt and stripped it of life.

So he continued hiking along the river, searching for a place with some real live trout.

He saw no wetlands. He saw no biodiversity. He saw no acid rain.

But he did find a bear den on the side of the river. Bush poked his head inside and realized that no grizzly bear had lived there for quite some time.

The president remembered that he once had a regional National Park Service director, Lorraine Mintzmyer, who wanted to give more environmental protections to this area around Yellowstone National Park. But Mintzmyer grew so insistent about these protections that she offended some local politicians—and was transferred to Philadelphia.

Bush was glad. If Mintzmyer had her way, Bush might run into a grizzly bear. And Bush wanted nothing to do with a grizzly bear in the backcountry.

"Wouldn't be prudent," he said.

Then suddenly, a Secret Service agent appeared on the river bank with some major news: Ross Perot had just quit the presidential race. Bush should get back to the ranch, fast, to discuss this latest campaign development with all his advisers.

This posed a major problem. After spending so much time on the river, Bush would be expected to bring back some fish. But Bush didn't have anything to show voters. Could he leave the river empty-handed?

No problem, he decided.

I'm the environmental president, Bush said. I'll tell voters another fish story.

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. 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.

NEIGHBORHOOD SCHOOLS IMPROVEMENT ACT

MOTION TO INVOKE CLOTURE

Mr. MITCHELL. Mr. President, at 10 o'clock tomorrow morning the Senate will vote on a motion to invoke cloture on the motion to disagree to the amendments of the House of Represent-

atives to S. 2, the Neighborhood Schools Improvement Act.

That is a legal mouthful, and I would like now to explain in everyday language what it means and what the consequences of the Senate vote tomorrow will be.

Earlier this year the Senate debated, over a period covering 5 legislative days, important legislation to reform and improve America's public schools. This legislation, the Neighborhood Schools Improvement Act, is the product of that debate. Nine separate votes were cast in the Senate in relation to that legislation and the bill which finally emerged was approved in the Senate by a vote of 92 to 6. Overwhelmingly Members of the Senate voted in support of that bill, and understandably so. We all want to act to improve public schools in our society. We all want to act in a manner that will enhance the ability of every American child wherever he or she lives, to whatever school he or she goes, to get a better education.

Sometime later the House passed a similar but not identical bill. It is the normal practice of this Congress, when the Senate passes a bill and the House passes a bill that is not identical, to have a conference between Senators and Representatives to reconcile the two bills, to agree on a single bill, which then goes back to both Houses for final passage.

The vote tomorrow will be on whether we can follow that normal procedure. Our Republican colleagues have objected to doing so. Apparently one or more of them wish to reopen the entire issue in what is a transparent effort to kill the education bill.

There is no possibility of reopening the issue, having another full-fledged debate, having a whole series of additional amendments voted on, and have any prospect of going through the conference and getting the bill passed this year. So this is a naked effort to kill the bill by delay, by taking an action which, to my recollection, has not occurred in all the time I have been majority leader, nor in all the time I have been in the Senate.

I do not recall the Senate having to invoke cloture, that is, get 60 Senators to vote at this point in the proceedings.

I regret very much that we have to. I hope that our Republican colleagues will permit us to proceed with this bill. After all, if the vote was 92 to 6 in favor of the bill, that means the overwhelming majority of Republican Senators voted in favor of the bill.

And on a subject like education, critical to our Nation's future, important to every community and every family in this country, we should be acting, not delaying.

Mr. President, I would not for a moment suggest that the Senate act hastily or without full and deliberate consideration of such important legislation. But we have done that. We debated it over a period of 5 legislative days. There were nine votes cast in relation to this bill. There has been a full and deliberate exploration and debate of the issues on this bill and the Senators acted by the overwhelming margin of 92 to 6. And yet, as we attempt now to proceed toward final action on the bill, a new delay, a new obstacle, a new obstruction is thrust before us in a way that clearly is intended to kill the bill; to prevent it from being enacted.

It is a matter of grave concern to me. It ought to be a matter of grave concern to every Senator, and it surely should concern every American who wants improvement in our system of education.

I hope tomorrow that those 92 Senators who voted for this bill once before will be consistent and vote to let us proceed to bring this bill to completion.

The Senate rules are difficult, they are complex. There are arcane. They are not understood fully by the overwhelming majority of Americans, and there is no reason why they should have to understand them.

But in this case, what it all boils down to is the very simple and direct question: Do we want education legislation this year or not? Do we want to act in a way that will improve the chances for young American boys and girls to get a better education or not?

That will be the issue before us tomorrow morning in what is, at least for me, an extraordinary circumstance under which we must proceed to take this unusual, very rare step to complete action on a measure which has been fully discussed, fully debated, voted on and approved by the Senate by a margin of 92, yes, 6, no.

Mr. President, I ask unanimous consent that a record of that vote be printed in the RECORD.

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

FINAL PASSAGE OF S. 2, NEIGHBORHOOD SCHOOLS IMPROVEMENT

YEAS (92)

Democrats: Adams, Akaka, Baucus, Bentsen, Biden, Bingaman, Boren, Bradley, Breaux, Bryan, Bumpers, Burdick, Byrd, Conrad, Cranston, Daschle, DeConcini, Dixon, Dodd, Exon, Ford, Fowler, Glenn, Gore, Graham, Heflin, Hollings, Inouye, Johnston, Kennedy, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Nunn, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Shelby, Simon, Wellstone, Wirth, Wofford.

Republicans: Bond, Brown, Burns, Chafee, Coats, Cochran, Cohen, D'Amato, Danforth, Dole, Domenici, Durenberger, Gorton, Gramm, Grassley, Hatch, Hatfield, Jeffords, Kassebaum, Kasten, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Seymour, Simpson, Specter, Stevens, Thurmond, Warner.

NAYS (6)

Democrats (0).

Republicans (6): Craig, Garn, Helms, Smith, Symms, Wallop.

NOT VOTING (2)

Democrats (2): Harkin, Kerrey.

Republicans. (0).

Mr. MITCHELL. Mr. President, we ought not to be in this situation. But, unfortunately, we are. I urge, I implore my colleagues to join me in supporting this important legislation.

MORNING BUSINESS

NATIONAL AFFORDABLE HOUSING ACT AMENDMENTS

The text of the bill (H.R. 5334) to amend and extend certain laws relating to housing and community development, and for other purposes, as passed the Senate on September 10, 1992, is as follows:

Resolved, That the bill from the House of Representatives (H.R. 5334) entitled "An Act to amend and extend certain laws relating to housing and community development, and for other purposes," do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Affordable Housing Act Amendments of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS AND POLICIES

Sec. 101. Comprehensive housing affordability strategy refinements.
Sec. 102. Performance goals.
Sec. 103. Subsidy layering review.
Sec. 104. Capacity study.
Sec. 105. Salaries and expenses.
Sec. 106. Regulation of consultants.
Sec. 107. Clarification on utility allowances.
Sec. 108. Grants to States for removal of regulatory barriers.

TITLE II—INVESTMENT IN AFFORDABLE HOUSING

Sec. 201. HOME authorization.
Sec. 202. New construction.
Sec. 203. Administrative costs.
Sec. 204. Tenant-based rental assistance.
Sec. 205. Maximum subsidy limitations.
Sec. 206. Rent calculations.
Sec. 207. Homeownership resale restrictions.
Sec. 208. Rental housing production set-aside.
Sec. 209. Matching requirements.
Sec. 210. Community housing production set-aside.
Sec. 211. Redevelopment of blighted urban areas model program.
Sec. 212. Transitional housing opportunities.
Sec. 213. Low-income affordability restrictions.
Sec. 214. Retroactive application of HOME amendments.

TITLE III—HOMEOWNERSHIP

Subtitle A—Homeownership Initiatives

Sec. 301. National homeownership trust authorization.
Sec. 302. Enterprise zone homeownership opportunity grants.

Subtitle B—FHA and Secondary Mortgage Market

Sec. 311. National Interagency Task Force on Multifamily Housing.

Sec. 312. Multifamily finance demonstration.
Sec. 313. Expenditures to correct defects.
Sec. 314. Mortgage insurance for nursing homes, intermediate care facilities and board and care homes.
Sec. 315. Definition of mortgagee.
Sec. 316. Statute of limitations on payment of distributive shares.
Sec. 317. Payment of mortgage insurance claims.
Sec. 318. Diversion of rehabilitation funds a Federal crime.
Sec. 319. Exemption from section 137(b) of the Truth in Lending Act.
Sec. 320. Coverage of the Multifamily Mortgage Foreclosure Act.
Sec. 321. Reciprocity of approval among Federal agencies.
Sec. 322. Multifamily projects.
Sec. 323. Mortgage limits for multifamily projects.
Sec. 324. Mortgagee Review Board.

TITLE IV—HOPE

Sec. 401. Authorization.
Sec. 402. HOPE amendments.
Sec. 403. HOPE for Youth: Youthbuild.
Sec. 404. Transfer of scattered site public and Indian housing to the HOPE program
Sec. 405. Eligibility of other Federal property for the HOPE programs.

TITLE V—HOUSING ASSISTANCE

Subtitle A—Public and Indian Housing

Sec. 501. Authorizations.
Sec. 502. Reform of public housing management.
Sec. 503. Revitalization of severely distressed public housing.
Sec. 504. Choice in Management Act of 1992.
Sec. 505. Directive to relieve regulatory burden.
Sec. 506. Ceiling rents.
Sec. 507. Replacement housing.
Sec. 508. Income eligibility.
Sec. 509. Applicability of definitions to Indian housing.
Sec. 510. Preference rules.
Sec. 511. Definition of adjusted income for families assisted by Indian housing authorities.
Sec. 512. Nonmetropolitan allocation requirement for the public and Indian housing and section 8 programs
Sec. 513. Drug elimination grants.
Sec. 514. Funding of public housing modernization program monitoring and management assistance.
Sec. 515. Use of comprehensive grant funds for acquisition of replacement housing units.
Sec. 516. Exemption from limitation on new construction.
Sec. 517. Payments to municipalities.
Sec. 518. Rental assistance fraud recoveries.
Sec. 519. Sale of certain scattered-site housing.
Sec. 519A. Modernization of Indian housing.
Sec. 519B. Project-based accounting.
Sec. 519C. Homeownership demonstration program in Omaha, Nebraska.
Sec. 519D. Public housing youth sports programs.

Subtitle B—Low-Income Rental Assistance

Sec. 521. Voucher and certificate homeownership.
Sec. 522. Moving to opportunity for fair housing.
Sec. 523. Family unification assistance.
Sec. 524. Housing assistance in Jefferson County, Texas.
Sec. 525. Applicability of amendment to McKinney Act.
Sec. 526. Family self-sufficiency.
Sec. 527. Section 8 amendments.
Sec. 528. Exclusion of income.
Sec. 529. Technical amendment.

Subtitle C—General Provisions and Other Assistance Programs

Sec. 531. Low-income housing authorization.
Sec. 532. Housing counseling.
Sec. 533. Public and assisted housing drug elimination.
Sec. 534. Sense of the Senate.

TITLE VI—PRESERVATION

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

Sec. 601. Authorization.
Sec. 602. Prepayment amendments.
Sec. 603. Eligibility of public mortgagors for section 236 mortgage insurance.

Subtitle B—Other Preservation Provisions

Sec. 611. RESTORE for troubled multifamily housing.

TITLE VII—RURAL HOUSING

Sec. 701. Program authorizations.
Sec. 702. Deferred mortgage demonstration.
Sec. 703. Set-aside for underserved areas and colonias.
Sec. 704. Permanent authority for section 523.
Sec. 705. Nonprofit set-aside.
Sec. 706. Housing preservation grants.
Sec. 707. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing.
Sec. 708. Preservation.
Sec. 709. Disaster assistance.
Sec. 710. Administrative appeals process.
Sec. 711. Prohibition on transfer of rural housing programs.
Sec. 712. FMHA reform provisions.
Sec. 713. Rural voucher program.
Sec. 714. Site acquisition and development.
Sec. 715. Subdivision approval.
Sec. 716. Consideration of certain areas as rural areas.

TITLE VIII—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly

Sec. 801. Authorization.
Sec. 802. Supportive housing for the elderly.
Sec. 803. Rental assistance for the elderly.
Sec. 804. Demonstration period for HOPE elderly independence.
Sec. 805. Revised congregate housing services program.

Subtitle B—Supportive Housing for Persons With Disabilities

Sec. 811. Authorization.
Sec. 812. Participating organizations.

Subtitle C—Supportive Housing for the Homeless

Sec. 821. Authorization.
Sec. 822. Safe Havens for the homeless.
Sec. 823. Applicability of Shelter Plus Care.
Sec. 824. Strategy to eliminate unfit transient facilities.
Sec. 825. Shelter plus care program.
Sec. 826. Supportive housing program.
Sec. 827. Authorization of appropriations for the interagency council on the homeless.
Sec. 828. Extension of interagency council.
Sec. 829. Authorization of appropriations for Federal emergency management food and shelter program.
Sec. 830. Single room occupancy housing for the homeless.
Sec. 830A. Miscellaneous provisions.
Sec. 830B. Rural homelessness grant program.

Subtitle D—Housing Opportunities for Persons With AIDS

Sec. 831. Authorization.
Sec. 832. Program amendments.
Sec. 833. Housing opportunities for persons with AIDS.
Sec. 834. Emergency shelter grants amendments.

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

Sec. 901. Community development authorizations.
Sec. 902. Homeownership assistance under CDBG.
Sec. 903. State set-aside for technical assistance.
Sec. 904. Elimination of nonhousing community development plan.
Sec. 905. Loans of CDBG funds.
Sec. 906. CDBG code enforcement.
Sec. 907. CDBG set-aside for colonias.
Sec. 908. Approval of multijurisdictional agreements.
Sec. 909. Neighborhood-based nonprofit organizations.
Sec. 910. Economic development.
Sec. 911. Neighborhood development program.
Sec. 912. Neighborhood Reinvestment Corporation Act.
Sec. 913. CDBG public services cap.
Sec. 914. Activities to affirmatively further fair housing.
Sec. 915. Eligibility of Federal or State enterprise zones under the CDBG program.

Subtitle B—Regulatory Programs

Sec. 921. National commissions.
Sec. 922. Manufactured housing.

Subtitle C—Miscellaneous Programs

Sec. 931. HUD research and development.
Sec. 932. Fair housing initiatives program.
Sec. 933. Economic opportunities for low- and very low-income persons.
Sec. 934. Study of section 3 of the Housing and Urban Development Act of 1968.
Sec. 935. Study on the housing impact of military base expansion.
Sec. 936. Nehemiah housing opportunity grants.
Sec. 937. Sense of the Senate.
Sec. 938. Improved coordination of urban policy.
Sec. 939. Community Outreach Act.
Sec. 940. Report on community development lending.
Sec. 941. Report on community development banking.
Sec. 942. Flood control restoration zone.
Sec. 943. Energy efficient mortgages pilot program.
Sec. 944. Prohibition of lump-sum payments.
Sec. 945. Smoke detectors.
Sec. 946. The National Cities in Schools Community Development Program.
Sec. 947. Economic independence.
Sec. 948. Studies of insurance availability in central cities and distressed urban areas.
Sec. 949. Flood elevation requirements for St. Charles Parish, Louisiana.
Sec. 950. Extension of time to appeal elevation determinations.
Sec. 951. Administrative provision.
Sec. 952. Community investment corporation demonstration.

TITLE X—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

Sec. 1001. Short title.
Sec. 1002. Findings.
Sec. 1003. Purposes.
Sec. 1004. Definitions.

Subtitle A—Lead-Based Paint Hazard Reduction

Sec. 1011. Grants for lead-based paint hazard reduction in target housing.
Sec. 1012. Evaluation and reduction of lead-based paint hazards in federally assisted housing.
Sec. 1013. Disposition of federally owned housing.

Sec. 1014. Comprehensive housing affordability strategy.
Sec. 1015. Task force on lead-based paint hazard reduction and financing.
Sec. 1016. National consultation on lead-based paint hazard reduction.
Subtitle B—Evaluation and Reduction Infrastructure
Sec. 1021. Contractor training and certification.
Sec. 1022. Certification of laboratories.
Sec. 1023. Guidelines for lead-based paint hazard evaluation and reduction activities.
Sec. 1024. Contractor quality control.
Sec. 1025. National clearinghouse on residential lead poisoning.
Subtitle C—Public Information and Technical Assistance
Sec. 1031. Disclosure of information concerning lead upon transfer of residential property.
Sec. 1032. Public awareness.
Sec. 1033. Relationship to other laws.
Subtitle D—Research and Development
PART 1—HUD RESEARCH
Sec. 1051. Research on lead exposure from other sources.
Sec. 1052. Testing technologies.
Sec. 1053. Authorization.
PART 2—GAO REPORT
Sec. 1056. Federal implementation and insurance study.
Subtitle E—Reports
Sec. 1061. Reports of the Secretary of Housing and Urban Development.
TITLE XI—MISCELLANEOUS
Sec. 1101. Delay use of 1990 census housing data to examine effect on targeting for CDBG formula.
Sec. 1102. Investment of funds.
Sec. 1103. Public housing authority insurance pools.

TITLE I—GENERAL PROVISIONS AND POLICIES

SEC. 101. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY REFINEMENTS.

(a) LINKAGE BETWEEN HOUSING NEED AND ALLOCATION OF HOUSING RESOURCES.—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating paragraphs (8) through (15) as paragraphs (9) through (16), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) describe how the jurisdiction's plan will meet the housing needs identified pursuant to subparagraphs (1) and (2), describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;".

(b) RURAL HOMELESSNESS.—Section 105(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(2)) is amended by inserting ", including rural homelessness," after "homelessness" the first place it appears.

(c) ANTIPOVERTY STRATEGY.—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) in paragraph (15), by striking the period at the end and inserting a semicolon; and

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

"(16) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter, and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line.".

SEC. 102. PERFORMANCE GOALS.

(a) PERFORMANCE GOALS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") shall establish performance goals for the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objective of national housing policy specified in section 102 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12702).

(2) DEFINITION OF PROGRAM.—Programs referred to in paragraph (1) shall include—

(A) the Federal Housing Administration single-family and multi-family mortgage insurance programs,

(B) the Stewart B. McKinney Homeless Assistance programs,

(C) public housing,

(D) programs to preserve the federally assisted housing inventory,

(E) programs to expand opportunities for homeownership, and

(F) other programs, as appropriate.

(3) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in objective, quantifiable, and measurable form.

(4) REPORT.—The Secretary shall prepare an annual report to the Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in such program for the previous year.

(5) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the report under paragraph (4) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

(b) PERFORMANCE GOALS FOR THE FARMERS HOME ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall establish performance goals for the major housing programs of the Farmers Home Administration in order to measure progress towards meeting the objective of national housing policy specified in section 102 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12702).

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in objective, quantifiable, and measurable form.

(3) REPORT.—The Secretary of Agriculture shall prepare a report to the Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in such program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the report under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

SEC. 103. SUBSIDY LAYERING REVIEW.

(a) IN GENERAL.—The Secretary shall establish guidelines for housing credit agencies, as defined under section 42 of the Internal Revenue Code of 1986, to implement the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) for projects receiving assistance within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986.

(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall require that—

(1) the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

(2) project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors.

(c) EFFECTIVE DATE.—As of January 1, 1993, a housing credit agency shall carry out the responsibilities of section 102(d) of the Housing and Urban Development Reform Act for projects allocated a low income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 if such agency certifies to the Secretary that it is properly implementing the guidelines established under subsection (a).

SEC. 104. CAPACITY STUDY.

Section 110(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12710(a)) is amended—

(1) by striking ", and"; and

(2) by striking the period at the end and inserting the following: ", and the ability to respond to areas identified as 'material weaknesses' by the Office of the Inspector General in financial audits or other reports.".

SEC. 105. SALARIES AND EXPENSES.

Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535) is amended by inserting at the end the following new subsection:

"(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section $489,000,000 for fiscal year 1993 and $505,540,000 for fiscal year 1994.

"(2) Of the amounts authorized to be appropriated to carry out this section, not less than $5,000,000 of such amount shall be exclusively for the purposes of providing ongoing training and capacity building for Department personnel.".

SEC. 106. REGULATION OF CONSULTANTS.

Section 13(f)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3537b(f)(1)) is amended by striking "authority", "State", and "local government", and by adding immediately before the period at the end the following: ", but does not include a State or local government, or the officer or employee of a State or local government who is engaged in the official business of the State or local government".

SEC. 107. CLARIFICATION ON UTILITY ALLOWANCES.

(a) ELIGIBILITY.—Tenants who—

(1) are responsible for making out-of-pocket payments for utility bills; and

(2) receive energy assistance through utility allowances that include energy costs under programs identified in subsection (b);

shall not have their eligibility (or benefits under other programs designed to assist low-income people with increases in energy costs since 1978, including the Low-Income Home Energy Assistance Program) reduced or eliminated. Such tenants shall be treated identically with other households eligible for such assistance, including in the determination of the home energy costs for which they are individually responsible and in the determination of their incomes.

(b) APPLICABILITY.—This section applies to programs under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of

1965, section 202 of the Housing Act of 1959, and title V of the Housing Act of 1949.

SEC. 108. GRANTS TO STATES FOR REMOVAL OF REGULATORY BARRIERS.

(a) GRANT PROGRAM.—Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

"SEC. 122. (a) AUTHORITY AND ALLOCATION.—Of the amount approved in an appropriations Act for grants under this title in any year, the Secretary shall reserve up to $15,000,000 for each of fiscal years 1993 and 1994 to be allocated to States for grants for further planning and implementation of State strategies for the removal of State and local regulatory barriers to affordable housing. These funds shall be allocated among States that have a Comprehensive Housing Affordability Strategy approved by the Secretary under section 105 of the Cranston-Gonzalez National Affordable Housing Act, based upon measures of need for the whole State, as determined pursuant to section 217(b)(1)(B) (excluding adjustments under section 217(b)(1)(E)) of such Act, except that the minimum annual grants shall be $100,000. Any amounts allocated to a State pursuant to this section that are not received by the State for fiscal year because of failure to obtain approval of its application for a grant under this section, or which otherwise become available, shall be added to amounts available for grants under section 103 in the succeeding fiscal year.

"(b) DEFINITION.—For purposes of this section, the terms 'regulatory barriers to affordable housing' and 'regulatory barriers' mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

"(c) APPLICATIONS.—States shall apply for grants under this section in a form and manner prescribed by the Secretary. Applications shall describe how grant amounts will assist States to further plan and implement strategies to remove regulatory barriers to affordable housing.

"(d) ELIGIBLE ACTIVITIES.—States shall use grants under this section for activities that further develop and implement strategies to remove regulatory barriers, including:

"(1) identifying, assessing, and monitoring State and local regulatory barriers;

"(2) identifying State public policies (including enabling or other legislation), or the absence of such policies, that permit or encourage local regulatory barriers;

"(3) developing a State legislative reform program (as well as a strategy for adoption of the program) intended to reduce State and local regulatory barriers;

"(4) developing model State standards and ordinances to reduce regulatory barriers and assisting in their adoption and use;

"(5) carrying out State administrative reform to reduce regulatory barriers through the simplification and consolidation of State administrative procedures and processes, including the issuance of permits; and

"(6) providing technical assistance and information to local governments for implementation of legislative and administrative reform programs to reduce regulatory barriers.

"(e) PERFORMANCE REPORTS.—States that receive grants under this section shall submit performance reports, in a form and manner prescribed by the Secretary, describing any progress and problems in planning and implementing strategies to remove regulatory barriers to affordable housing.".

(b) ALLOCATION OF GRANT AMOUNTS.—Section 106(a)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(a)(2)) is amended by striking "section 107" and inserting "sections 107 and 122".

(c) AUTHORITY TO REDUCE HOME MATCHING REQUIREMENT.—The Secretary may reduce the matching contribution required under section 220(a) of the Cranston-Gonzalez National Affordable Housing Act by 10 percent for jurisdictions that submit exceptional plans to remove barriers to affordable housing as part of their comprehensive housing affordability strategies.

TITLE II—INVESTMENT IN AFFORDABLE HOUSING

SEC. 201. HOME AUTHORIZATION.

Section 205 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12724) is amended to read as follows:

"SEC. 205. AUTHORIZATION.

"There are authorized to be appropriated to carry out this title $2,086,000,000 for fiscal year 1993, and $2,152,752,000 for fiscal year 1994, of which—

"(1) not more than $14,000,000 for fiscal year 1993, and $14,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 233; and

"(2) not more than $11,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under subtitle C.".

SEC. 202. NEW CONSTRUCTION.

(a) RURAL AREAS.—Section 212(a)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(3)) is amended by adding at the end the following:

"(F) EXCEPTION FOR RURAL AREA.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing in any rural area as defined in section 520 of the Housing Act of 1949, if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for new housing exists in the jurisdiction and that there is not an adequate supply of vacant housing or housing that could be acquired or rehabilitated to meet the need.".

(b) CONDITIONS FOR NEW CONSTRUCTION.—Section 212(a)(3)(B) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(3)(B)) is amended—

(1) after the second sentence, by inserting "If a participating jurisdiction is added to the list on the basis of additional information, such designation may be for a period of eligibility longer than 1 year."; and

(2) in the last sentence—

(A) by striking "rates, low" and inserting "rates and low"; and

(B) by striking ", and a high proportion of substandard housing".

SEC. 203. ADMINISTRATIVE COSTS.

(a) HOUSING USES.—Section 212(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by inserting after "organizations," the following: "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations,".

(b) LIMITATION ON ADMINISTRATIVE COSTS.—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended by adding at the end the following new subsection:

"(f) LIMITATION ON ADMINISTRATIVE COSTS.—A participating jurisdiction may not use more than 7 percent of its allocation under this subtitle to cover administrative expenses in carrying out its responsibilities under this title and planning responsibilities as required by section 105 of this Act, except that a participating jurisdiction may use up to 10 percent of its allocation to cover administrative expenses if the jurisdiction is in fiscal distress, as defined in section 220(d) of this Act.

"(g) LIMITATION ON OPERATING ASSISTANCE.—A participating jurisdiction may not use more than 5 percent of its allocation under this subtitle for the payment of operating expenses for community housing development organizations.".

(c) CONFORMING AMENDMENTS.—

(1) REPEAL OF PROHIBITION.—Section 212(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(c)) is amended by striking paragraph (1) and renumbering accordingly.

(2) ADMINISTRATIVE COSTS.—Section 220(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(b)) is amended—

(A) by striking paragraph (2);

(B) by striking "(1) IN GENERAL.—"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(3) FORM.—Section 220(c) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4) and (5) as (2), (3) and (4), respectively.

SEC. 204. TENANT-BASED RENTAL ASSISTANCE.

Section 212(a)(4)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(4)(A)) is amended by striking clause (ii) and inserting the following:

"(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937.".

SEC. 205. MAXIMUM SUBSIDY LIMITATIONS.

Section 212(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(1)) is amended by inserting after the second sentence the following: "Limits established under this subsection shall not be adjusted or reduced to reflect any anticipated additional subsidies or to take into account any local matching funds required to be provided.".

SEC. 206. RENT CALCULATIONS.

Section 215(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended—

(1) in paragraph (1)(A), by striking "smaller and larger families" and inserting "number of bedrooms in the unit";

(2) in paragraph (3), by adding at the end the following: "The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986."; and

(3) in the second sentence of paragraph (3), by striking "not less than" and inserting "the lesser of the amount payable by the tenant under State or local law or".

SEC. 207. HOMEOWNERSHIP RESALE RESTRICTIONS.

Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (4) and inserting the following:

"(4) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

"(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

"(i) provide the owner with a fair return on investment, including any improvements, and

"(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

"(B) recapture the investment provided under this title in order to assist other persons in accordance with the requirements of this subsection; and".

SEC. 208. RENTAL HOUSING PRODUCTION SET-ASIDE.

(a) IN GENERAL.—Section 217(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating the following subparagraphs accordingly.

(b) CONFORMING AMENDMENTS.—Section 217(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)) is amended—

(1) in subparagraph (C), as redesignated by subsection (a)—

(A) by striking "Except as provided in subparagraph (A), the" and inserting "The"; and

(B) by striking "(B)" and inserting "(A)";

(2) in subparagraph (D), as redesignated by subsection (a), by striking "(B)" and inserting "(A)";

(3) in subparagraph (E), as redesignated by subsection (a)—

(A) by striking "(B)" in the first sentence and inserting "(A)"; and

(B) by striking the second sentence; and

(4) in subparagraph (F), as redesignated by subsection (a), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)".

SEC. 209. MATCHING REQUIREMENTS.

(a) TIERED CONTRIBUTION.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended—

(1) in paragraph (1), by inserting after the semicolon the term "and";

(2) in paragraph (2), by—

(A) striking "33" and inserting in lieu thereof the number "35"; and

(B) striking "; and" and inserting "and new construction."

(3) by striking paragraph (3).

(4) by striking "affordable housing assisted under this title" and inserting "housing that qualifies as affordable housing under this title".

(b) FORM.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended in subsection (c)—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) up to 10 percent of proceeds from bond financing validly issued by a State or local government, or political subdivision thereof, and repayable with revenues derived from a multifamily project financed, but not more than 25 percent of the contribution required under subsection (a) may be derived from this source; and

"(7) such other in-kind contributions as the Secretary may approve, including sweat equity.".

(c) REDUCTION OF REQUIREMENT.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended by striking subsection (d) and inserting:

"(d) REDUCTION OF REQUIREMENT.—

"(1) IN GENERAL.—The Secretary shall reduce the matching requirement by—

"(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

"(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress;

"(2) DEFINITIONS.—For purposes of this section—

"(A) 'fiscal distress' means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

"(B) 'severe fiscal distress' means such jurisdiction that satisfies 2 of the distress criteria;

"(3) DISTRESS CRITERIA.—For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

"(A) The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

"(B) The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

"(4) STATES.—In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.".

SEC. 210. COMMUNITY HOUSING PRODUCTION SET-ASIDE.

(a) EXTENSION OF PERIOD.—Section 231 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771) is amended by striking "18 months" each place it appears in subsections (a) and (b) and inserting "24 months".

(b) ALLOCATION FOR USE BY NONPROFIT ORGANIZATION.—Section 231(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771(a)) is amended by inserting after the second sentence the following: "If during the first 24 months of its participation under this title, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations then up to 10 percent of the funds allocated to that jurisdiction under this section may be made available to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations in that jurisdiction.".

(c) OTHER REQUIREMENTS.—Section 234(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12774(b)) is amended—

(1) by striking ", together with other Federal assistance,"; and

(2) by inserting before the period the following: "or $50,000 annually, whichever is greater".

SEC. 211. REDEVELOPMENT OF BLIGHTED URBAN AREAS MODEL PROGRAM.

(a) IN GENERAL.—Subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12801 et seq.) is amended by adding at the end the following new section:

"SEC. 260. REDEVELOPMENT OF BLIGHTED URBAN AREAS.

"(a) IN GENERAL.—The Secretary shall make available a model program to facilitate the redevelopment of severely blighted inner city areas.

"(b) ELIGIBLE AREAS.—Guidelines to implement this subsection shall require that projects conducted under this model program—

"(1) are located in qualified census tracts in which at least 70 percent of the families have incomes below 80 percent of area median income;

"(2) not less than 30 percent of the residents of which have incomes below the poverty level; and

"(3) are located in areas with a pervasive incidence of vacant land or land occupied by abandoned or substandard buildings.

"(c) INCOME TARGETING.—Notwithstanding section 215(a)(1)(C) and section 215(b)(2) of this title, housing shall count as qualified housing if it meets all of the following conditions:

"(1) Not less than 60 percent of the units are occupied by very low-income families at the time of initial occupancy.

"(2) Not less than 80 percent of the units are occupied by low income families at the time of initial occupancy.

"(3) All of the units are occupied by families with incomes below 100 percent of area median income.

"(d) RENT CALCULATIONS.—For projects conducted under this model program, the second sentence of section 215(a)(3) of this title shall not apply.".

(b) CONFORMING AMENDMENT.—The table of contents of the Cranston-Gonzalez National Affordable Housing Act is amended by inserting after the item relating to section 259 the following:

"Sec. 260. Redevelopment of blighted urban areas.".

SEC. 212. TRANSITIONAL HOUSING OPPORTUNITIES.

Section 225(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12755(b)) is amended by adding at the end the following: "In the case of short-term transitional housing, as defined under the Stewart B. McKinney Homeless Assistance Act, that is assisted under this subtitle, the owner may refuse to renew the lease after 2 years.".

SEC. 213. LOW-INCOME AFFORDABILITY RESTRICTIONS.

Section 215(a)(1)(E) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)(1)(E)) is amended by inserting after "Act" the following: ", except that the Secretary may permit termination of occupancy and affordability requirements upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) is required to attract private bank financing without Federal insurance, (ii) is consistent with the purposes of this subtitle, and (iii) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure.".

SEC. 214. RETROACTIVE APPLICATION OF HOME AMENDMENTS.

The amendments made by sections 205, 206, 207, 210, 211 and 212, shall apply to unexpended funds allocated under title II of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992.

TITLE III—HOMEOWNERSHIP

Subtitle A—Homeownership Initiatives

SEC. 301. NATIONAL HOMEOWNERSHIP TRUST AUTHORIZATION.

(a) IN GENERAL.—The first sentence of section 308 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12857) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $25,000,000 for fiscal year 1993 and $26,100,000 for fiscal year 1994.".

(b) AMENDMENTS.—The Cranston-Gonzalez National Affordable Housing Act of 1990 is amended—

(1) in section 303(a), by adding at the end the following:

"(3) SECOND MORTGAGE ASSISTANCE.—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and

"(4) CAPITALIZATION OF REVOLVING LOAN FUNDS.—Grants to public or private nonprofit organizations or agencies to establish revolving loan funds to provide homeownership assistance

to eligible first-time homebuyers consistent with the requirements of this title. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund to be used for purposes related to this section."; and

(2) in section 304(e)—

(A) by striking "$20,000,000" and inserting "$5,000,000";

(B) by striking "1991" and inserting "1993"; and

(C) by striking paragraphs (1) through (3) and inserting the following:

"(1) In Salt Lake City, Utah, in an amount not to exceed $2,100,000, for acquisition of land and infrastructure improvements for moderate income residential development."; and

(D) by redesignating paragraph (4) as paragraph (2).

SEC. 302. ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) DEFINITIONS.—For purposes of this section the following definitions shall apply:

(1) HOME.—The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(3) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) APPLICATIONS.—Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) ELIGIBLE USES OF ASSISTANCE.—

(1) IN GENERAL.—Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) SPECIFIC REQUIREMENTS.—Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding $15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) FAMILY NEED.—Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

(3) DOWNPAYMENT.—Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) LEASING PROHIBITION.—No family purchasing a home under this section may lease such home.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—

(1) LOCAL CONSULTATION.—No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) PROGRAM SCHEDULE.—Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(3) LOCATION.—All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) SALES CONTRACTS.—Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) PROGRAM SELECTION CRITERIA.—

(1) IN GENERAL.—In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue final regulations to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $50,000,000 for each of the fiscal years 1993 and 1994.

Subtitle B—FHA and Secondary Mortgage Market

SEC. 311. NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.

(a) PURPOSE.—The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

(b) ESTABLISHMENT OF TASK FORCE.—There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the "Task Force").

(c) MEMBERSHIP OF TASK FORCE.—

(1) FEDERAL OFFICIALS.—The Task Force shall be composed of—

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Federal Housing Finance Board;

(C) the Comptroller of the Currency;

(D) the Chairperson of the Federal Reserve Board;

(E) the Director of the Office of Thrift Supervision;

(F) the Chairperson of the Federal Deposit Insurance Corporation;

(G) the Chairperson of the Federal National Mortgage Association; and

(H) the Chairperson of the Federal Home Loan Mortgage Corporation,

or their designees, and the persons appointed under paragraphs (2) and (3).

(2) APPOINTMENTS BY THE SECRETARY.—The Secretary shall appoint as members of the Task Force—

(A) 1 individual who is a representative of a State housing finance agency;

(B) 1 individual who is a representative of a local housing finance agency;

(C) 1 individual who is a representative of the building industry with experience in multifamily housing; and

(D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

(3) APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.—The Chairperson of the Federal Housing Finance Board shall appoint as members of the Task Force—

(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

(B) 1 individual who is a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and

(C) 1 individual who is a representative from a nationally recognized rating agency.

(d) ADMINISTRATION.—

(1) CHAIRPERSONS.—The Task Force shall be chaired jointly by the Secretary and the Chairperson of the Federal Housing Finance Board.

(2) MEETINGS.—The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

(3) QUORUM.—A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

(4) VOTING.—Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

(5) VACANCIES.—Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) PROHIBITION ON ADDITIONAL PAY.—Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

(e) FUNCTIONS OF THE TASK FORCE.—

(1) IN GENERAL.—The Task Force shall conduct a study on multifamily housing finance to determine how best to develop a national database on multifamily housing loans and to utilize this database to develop preliminary recommended risk standards for multifamily housing mortgages. The study shall also—

(A) develop preliminary standards of performance for multifamily housing loans according to factors which include, but are not limited to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards and government policies;

(B) develop preliminary standards for a risk profile of multifamily housing based on the analysis of the factors listed in subparagraph (A);

(C) determine the applicability of these standards for multifamily housing finance, including, but not limited to such uses as project underwriting, secondary market purchase, and risk-assessment of multifamily housing loans;

(D) estimate the costs of developing a national database, including startup costs and data collection costs; and

(E) include any other recommendations determined by the Task Force.

(2) FINAL REPORT.—Not later than 1 year following the enactment of this Act, the Task Force shall submit to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(f) AUTHORITY OF TASK FORCE.—

(1) RULES AND REGULATIONS.—The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(2) ACCESS TO DATA.—The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) sample loan data shall be confidential and not subject to release under section 552 of title 5, United States Code; and

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator.

(3) SAMPLE DATA.—In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) sample loan data shall be confidential and not subject to release under section 552 of title 5, United States Code; and

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator.

(4) AGENCY RESOURCES.—The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

(5) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

(7) STAFF.—The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

(g) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $10,000,000 for fiscal years 1993 and 1994. Funds appropriated under this subsection shall remain available until expended.

SEC. 312. MULTIFAMILY FINANCE DEMONSTRATION.

Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end the following new section:

"SEC. 256. MULTIFAMILY FINANCE DEMONSTRATION.

"(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a program to demonstrate the effectiveness of providing new forms of Federal credit enhancement for affordable multifamily loans.

"(2) EVALUATION OF CONTRACTUAL ARRANGEMENTS.—The demonstration program shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including arrangements with State or local housing finance agencies, the Federal Housing Finance Board; the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other State or local mortgage insurance companies or bank lending consortia.

"(3) CONSULTATION REQUIREMENTS.—In carrying out the demonstration program under this section, the Secretary shall—

"(A) consult with representatives from the appropriate public or private agencies, organizations or individuals with experience in multifamily lending, underwriting, insurance and development; and

"(B) consider any recommendations made by the Comptroller General pursuant to the study mandated in section 271 of the Cranston-Gonzalez National Affordable Housing Act, in order to design and implement procedures to test new forms of credit enhancement.

"(b) HOUSING FINANCE AGENCY PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall carry out a specific pilot program in conjunction with qualified housing finance agencies to test the effectiveness of Federal credit enhancement for affordable multifamily loans through a system of risk-sharing agreements with such agencies.

"(2) PILOT PROGRAM REQUIREMENTS.—

"(A) IN GENERAL.—In carrying out the pilot program authorized under this section, the Secretary shall enter into risk-sharing agreements with qualified housing finance agencies.

"(B) MORTGAGE INSURANCE.—Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the affordable multifamily loans originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

"(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share equally the full amount of any loss on the insured mortgage.

"(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

"(i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

"(ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);

"(iii) funds pledged through a State or local guarantee fund; or

"(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

"(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

"(F) QUALIFIED HOUSING FINANCE AGENCY.—For purposes of this section, the term 'qualified housing finance agency' means any State or local housing finance agency that—

"(i) carries the designation of 'top tier' or its equivalent as evaluated by Standard and Poors

or any other nationally recognized rating agency;

"(ii) receives a rating of 'A' for its general obligation bonds from a nationally recognized rating agency; or

"(iii) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to—

"(I) years of experience in financing multifamily housing;

"(II) fund balances;

"(III) administrative capabilities;

"(IV) investment policy;

"(V) internal controls and financial management;

"(VI) portfolio quality; and

"(VII) State or local support.

"(G) MORTGAGE INSURANCE PREMIUMS.—The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

"(H) LIMITATION ON INSURANCE AUTHORITY.—The total unit volume for mortgages insured under this subsection may not exceed 30,000 units over fiscal years 1993, 1994, and 1995. The demonstration authorized under this section shall not be expanded until the reports required under subsection (d) are submitted to the Congress.

"(I) IDENTITY OF INTEREST.—Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this section.

"(J) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured under this section.

"(c) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily loans insured under this section shall qualify as affordable only if the housing is occupied by very low-income families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986.

"(d) REPORTS TO CONGRESS.—

"(1) INTERIM REPORT.—Not later than 1 year after the date of enactment of this section, the Secretary shall submit to the Congress an interim report that summarizes the progress of the Secretary in implementing the multifamily demonstration program and the housing finance agency pilot program established under this section.

"(2) COMPREHENSIVE REPORT.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the Congress a comprehensive report that evaluates the effectiveness of the multifamily demonstration program and the effectiveness of the housing finance agency pilot program established under this section.

"(e) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall issue such regulations as may be necessary to carry out this section.

"(f) SUBJECT TO APPROPRIATIONS.—The authority provided by this section shall be effective only to the extent that it is approved in advance in appropriations Acts.".

SEC. 313. EXPENDITURES TO CORRECT DEFECTS.

Section 518(a) of the National Housing Act (12 U.S.C. 1735b(a)) is amended—

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

(2) by striking out "The Secretary" and all that follows through "make expenditures for" and inserting in lieu thereof the following:

"(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

"(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

"(B) was approved, before the beginning of construction, for mortgage insurance under this Act or for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

"(C) the Secretary finds to have structural defects.

"(2) Expenditures under this subsection may be made for".

SEC. 314. MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES AND BOARD AND CARE HOMES.

Section 232(d) of the National Housing Act (12 U.S.C. 1715w) is amended—

(1) by inserting after "intermediate care facility" the first place it appears the following: ", including a new addition to an existing facility and regardless of whether the existing facility is being rehabilitated,";

(2) in paragraph (3), by adding at the end the following:

"The Secretary shall not promulgate regulations or establish terms or conditions under this section that interfere with the ability of the mortgagor and mortgagee to determine the interest rate."; and

(3) in paragraph (2), before "including", insert the following: "or 95 per centum of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act),".

SEC. 315. DEFINITION OF MORTGAGEE.

Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(1) by striking paragraph (6)(D); and

(2) by redesignating paragraph (7) as paragraph (8), and inserting the following after paragraph (6):

"(7) DEFINITION OF 'MORTGAGEE'.—For purposes of this subsection, the term 'mortgagee' means—

"(A) a mortgagee approved under this Act;

"(B) a lender or a loan correspondent approved under title I of this Act;

"(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

"(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.".

SEC. 316. STATUTE OF LIMITATIONS ON PAYMENT OF DISTRIBUTIVE SHARES.

(a) DISTRIBUTION OF SHARES.—Section 205(c) of the National Housing Act (12 U.S.C. 1711(c)) is amended by adding at the end the following two new sentences: "The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.".

(b) EXCEPTION.—Notwithstanding the 6-year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act, the Secretary shall distribute a share to an otherwise eligible mortgagor in accordance with section 205(c), if the mortgagor applies for payment of the share within 120 days of the date of enactment of this Act in accordance with procedures in effect on such date.

SEC. 317. PAYMENT OF MORTGAGE INSURANCE CLAIMS.

(a) PAYMENT OF INSURANCE.—Section 204 of the National Housing Act (12 U.S.C. 1710) is amended—

(1) in the fifth sentence of subsection (a), by striking ", subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value" and insert in lieu thereof the following: "issue to the mortgagee debentures having a par value";

(2) by striking subsection (c) and inserting the following:

"(c) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.";

(3) in the first sentence of subsection (d)—

(A) by striking "executed" and inserting "issued"; and

(B) by striking ", shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable" and inserting the following: "and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations"; and

(4) by striking in the fifth sentence of subsection (d) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty".

(b) RENTAL HOUSING INSURANCE.—Section 207 of the National Housing Act (12 U.S.C. 1713) is amended—

(1) by striking in the second sentence of subsection (g) ", subject to the cash adjustment provided for in subsection (j), issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a total face value" and inserting the following: "issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value";

(2) by striking in the first sentence of subsection (i) "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(3) by striking in the fourth sentence of subsection (i) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty"; and

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

"(j) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary

of Housing and Urban Development may prescribe in regulations.".

(c) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE.—Section 220(h) of the National Housing Act (12 U.S.C. 1715k) is amended—

(1) by striking in the first sentence of paragraph (7), "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(2) by striking in the fourth sentence of paragraph (h)(7) "and the guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, the guaranty";

(3) by striking the sixth sentence of paragraph (7), and inserting the following: "Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations."; and

(4) by striking the last sentence of paragraph (7).

(d) HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES.—The second sentence of section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715l(g)(4)(A)) is amended by striking ", subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value" and inserting the following: "issue to the mortgagee debentures having a par value".

SEC. 318. DIVERSION OF REHABILITATION FUNDS A FEDERAL CRIME.

Section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) is amended by adding at the end the following new paragraph:

"(6) Whoever, with intent to defraud, uses or authorizes the use of any proceeds of a loan insured under this subsection for any purposes other than purposes approved by the Secretary and as established by agreement between the mortgagor and mortgagee shall be fined not more than $250,000 or inprisoned not more than 5 years, or both.".

SEC. 319. EXEMPTION FROM SECTION 137(b) OF THE TRUTH IN LENDING ACT.

Section 255(j) of the National Housing Act (12 U.S.C. 1715z–20(j)) is amended by adding at the end the following: "Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.".

SEC. 320. COVERAGE OF THE MULTIFAMILY MORTGAGE FORECLOSURE ACT.

(a) PURPOSES.—Section 362 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701) is amended—

(1) in subsection (a)(1), by striking "real estate" and all that follows through "properties" and inserting: "multifamily mortgages"; and

(2) in subsection (b), by striking "multiunit" and all that follows through "1964" and inserting "multifamily mortgages".

(b) DEFINITION.—Section 363(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3702(2)) is amended to read as follows:

"(2) 'multifamily mortgage' means a mortgage held by the Secretary pursuant to—

"(A) section 608 or 801, or title II or X, of the National Housing Act;

"(B) section 312 of the Housing Act of 1964, as it existed immediately before its repeal by section 289 of the Cranston-Gonzalez National Affordable Housing Act;

"(C) section 202 of the Housing Act of 1959, as it existed immediately before its amendment by section 801 of the Cranston-Gonzalez National Affordable Housing Act;

"(D) section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act; and

"(E) section 811 of the Cranston-Gonzalez National Affordable Housing Act.".

(c) PREREQUISITES TO FORECLOSURE.—The last sentence of section 366 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3705) is amended by striking "status" and all that follows through "rents" and inserting the following: "status, relief under an assignment of rents, or transfer to a nonprofit entity pursuant to section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act) or section 811 of the Cranston-Gonzalez National Affordable Housing Act".

(d) NOTICE.—Section 367(b)(1) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3706(b)(1)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2)(A), the Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this part agree to continue to operate the security property in accordance with the terms of the program under which the mortgage insurance or assistance was provided, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.".

SEC. 321. RECIPROCITY OF APPROVAL AMONG FEDERAL AGENCIES.

(a) RECIPROCITY.—Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking the last sentence and inserting the following: "This subsection shall apply unless the Secretary of Housing and Urban Development withdraws the proposed rule published in the Federal Register on April 16, 1992, concerning subdivision approval.".

(b) ADMINISTRATIVE APPROVAL.—Any administrative approval of any housing subdivision made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is hereby approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

SEC. 322. MULTIFAMILY PROJECTS.

(a) OPERATING LOSS LOAN AMOUNT.—Section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)) is amended by adding at the end the following new paragraph:

"(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this section prior to the effective date of this paragraph and was reduced solely to reflect the amount of an escrow for initial operating deficits, the Secretary shall insure an increase in the existing loan or insure a separate loan in an amount equal to the lesser of—

"(A) the maximum amount permitted under this section and applicable underwriting requirements of the Secretary in effect at the time the loan is to be made; or

"(B) the amount of the escrow for initial operating deficits.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this section.

SEC. 323. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) SECTION 207 Limits.—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$56,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;"

(b) SECTION 213 LIMITS.—Section 213(b)(2) (12 U.S.C. 1715e(b)(2)) of the National Housing Act is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "33,696", "$40,248", "$49,608", and "$56,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;"

(c) BUILDER'S AND SPONSOR'S PROFIT AND RISK IN SECTION 220 PROJECTS.—Section 220(d)(3)(B)(ii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(ii)) is amended by inserting after "percentage)" the following: "except that with respect to any mortgage insured under this section, no allowance for builder's and sponsor's profit and risk shall be provided with respect to the amount of such mortgage that is eligible for insurance solely by reason of and to the extent of the increases in dollar amount limitations (other than annual increases based on a factor corresponding to the Consumer Price Index) authorized by section 324 of the National Affordable Housing Act Amendments of 1992, unless the mortgagor certifies and agrees that at least 20 percent of the units in the project at initial occupancy will be occupied by tenants whose incomes do not exceed 80 percent of the median income for the area".

(d) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3))B)(iii)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "33,696", "$40,248", "$49,608", and "$56,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this clause shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;"

(e) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(e)(ii)) is amended—

(1) by striking "$28,032", "$32,321", "$38,979", $49,893", "$55,583", "$29,500", "$33,816", "$41,120", "$53,195", and "$58,392" and insert-

ing "$33,638", "$38,785", "$46,775", "$59,872", "$66,700", "$35,400", "$40,579", "$49,344", "$63,834", and "$70,070", respectively; and

(2) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this clause shall be increased on an annual basis by a factor equal to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary,".

(f) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii) is amended—

(1) by striking "$25,228", "$28,636", "$34,613", "$43,446", "$49,231", "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$30,274", "$34,363", "$41,536", "$52,135", "$59,077", "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730, respectively; and

(2) by inserting after "sound standards of construction and design;" the following: "and except that the foregoing dollar amount limitations contained in this clause shall be increased on an annual basis by a factor equal to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;"

(g) BUILDER'S AND SPONSOR'S PROFIT AND RISK IN SECTION 221(d)(4) PROJECTS.—Section 221(d)(4)(iii) of the National Housing Act (12 U.S.C.1715l(d)(4)(iii)) is amended by inserting the following immediately before the semicolon at the end: ", except that with respect to any mortgage insured under this paragraph, no allowance for builder's and sponsor's profit and risk shall be provided with respect to the amount of such mortgage that is eligible for insurance solely by reason of and to the extent of the increases in dollar amount limitations (other than annual increases based on a factor corresponding to the Consumer Price Index) authorized by section 324 of the National Affordable Housing Act Amendments of 1992, unless the mortgagor certifies and agrees that at least 20 percent of the units in the project at initial occupancy will be occupied by tenants whose incomes do not exceed 80 percent of the median income for the area".

(h) BUILDER'S AND SPONSOR'S PROFIT AND RISK-GENERAL.—Section 227(c) of the National Housing Act (12 U.S.C. 1715r(c)) is amended by inserting at the end the following: "With respect to any mortgage insured under any section of this Act, no allowance for builder's and sponsor's profit and risk, builder's profit or sponsor's profit and risk shall be provided with respect to the amount of such mortgage that is eligible for insurance solely by reason of and to the extent of the increases in dollar amount limitations (other than annual increases based on a factor corresponding to the Consumer Price Index) authorized by section 324 of the National Affordable Housing Act Amendments of 1992, unless the mortgagor certifies and agrees that at least 20 percent of the units in the project at initial occupancy will be occupied by tenants whose incomes do not exceed 80 percent of the median income for the area.".

(i) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(1) by striking "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300" and inserting "$28,782", "$32,176", "$38,423", "$46,238", and "$54,360", respectively;

(2) by striking "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942", and inserting "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively; and

(3) by inserting after "sound standards of construction and design;" the following : "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;"

(j) BUILDER'S AND SPONSOR'S PROFIT AND RISK IN SECTION 231 PROJECTS.—Section 231(c)(4) of the National Housing Act (12 U.S.C. 1715v(c)(4)) is amended by inserting at the end of the second parenthetical phrase the following: ", except that with respect to any mortgage insured under this section, no allowance for builder's and sponsor's profit and risk shall be provided with respect to the amount of such mortgage that is eligible for insurance solely by reason of and to the extent of the increases in dollar amount limitations (other than annual increases based on a factor corresponding to the Consumer Price Index) authorized by section 324 of the National Affordable Housing Act Amendments of 1992, unless the mortgagor certifies and agrees that at least 20 percent of the units in the project at initial occupancy will be occupied by tenants whose incomes do not exceed 80 percent of the median income for the area".

(k) Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "33,696", "$40,248", "$49,608", and "$56,160", respectively;

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively; and

(3) by inserting after "sound standards of construction and design;" the following : "and except that the foregoing dollar amount limitations contained in this paragraph shall be increased on an annual basis by a factor corresponding to the Consumer Price Index, in accordance with procedures established in regulations issued by the Secretary;"

SEC. 324. MORTGAGEE REVIEW BOARD.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708C)(3)(C)) is amended—

(1) by inserting "temporarily" after "order";

(2) by inserting "(i)" after "Administration if";

(3) by inserting "(ii)" after "violations and"; and

(4) by striking the period after "6 months" and inserting the following: ", and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended.".

TITLE IV—HOPE

SEC. 401. AUTHORIZATION.

(a) IN GENERAL.—Title IV of the Cranston-Gonzalez National Affordable Housing Act is amended by inserting the following new section after section 401 (42 U.S.C. 1437aaa note):

"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

"(a) FISCAL YEAR 1993.—There are authorized to be appropriated for grants under this title $895,000,000 for fiscal year 1993, of which—

"(1) not less than $285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to $4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) not less than $285,000,000 shall be available for activities authorized under subtitle B, up to $3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle;

"(3) not less than $285,000,000 shall be available for activities under subtitle C, up to $2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(4) not less than $40,000,000 shall be available for activities authorized under subtitle D.

Any amount appropriated pursuant to this subsection shall remain available until expended.

"(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title $963,641,000 for fiscal year 1994, of which—

"(1) not less than $294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to $4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) not less than $294,547,000 shall be available for activities authorized under subtitle B, up to $3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle;

"(3) not less than $294,547,000 shall be available for activities under subtitle C, up to $2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(4) not less than $80,000,000 shall be available for activities authorized under subtitle D.

Any amount appropriated pursuant to this subsection shall remain available until expended.

"(c) TECHNICAL ASSISTANCE.—Technical assistance made available under Title III of the United States Housing Act of 1937, subtitle B or subtitle C may include, but is not limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate.".

(b) CONFORMING AMENDMENTS.—

(1) HOPE 1.—Section 301(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa(c)) is repealed.

(2) HOPE 2 AND HOPE 3.—Title IV of the Cranston-Gonzalez National Affordable Housing Act is amended—

(A) by striking section 421(c); and

(B) in section 441—

(i) by striking "(a) IN GENERAL.—"; and

(ii) by striking subsection (b).

SEC. 402. HOPE AMENDMENTS.

(a) HOPE 1 MATCHING FUNDING.—

(1) REPLACEMENT HOUSING.—Section 303(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2 (c)(1)) is amended by inserting after "expenses" the following: "and replacement housing".

(2) REDUCTION.—Section 303(c) of the United States Housing Act of 1937 is amended by inserting at the end the following new paragraph:

"(3) REDUCTION OF REQUIREMENT.—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act.".

(b) HOPE 2 ELIGIBLE PROPERTY.—Section 426(3)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D)) is amended by inserting before the period the following: "or an agency or instrumentality thereof".

SEC. 403. HOPE FOR YOUTH: YOUTHBUILD.

Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

"Subtitle D—HOPE for Youth: Youthbuild

"SEC. 451. STATEMENT OF PURPOSE.

"It is the purpose of this subtitle—

"(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by harnessing the energies and talents of economically disadvantaged young adults;

"(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

"(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

"(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

"SEC. 452. PROGRAM AUTHORITY.

"The Secretary is authorized to make—

"(1) planning grants to enable applicants to develop Youthbuild programs; and

"(2) implementation grants to enable applicants to carry out Youthbuild programs.

"SEC. 453. PLANNING GRANTS.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild programs under this subtitle. The amount of a planning grant under this section may not exceed $150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the potential of the applicant for developing a successful Youthbuild program;

"(3) the need for the prospective program, as determined by the degree of economic distress—

"(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

"(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

"(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"SEC. 454. IMPLEMENTATION GRANTS.

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used to carry out Youthbuild programs, including—

"(1) architectural and engineering work;

"(2) acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title; residential housing for homeless individuals, and low- and very low-income families; or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs;

"(3) administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization;

"(4) education and job training services and activities including—

"(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

"(B) services and activities designed to meet the educational needs of participants, including—

"(i) basic skills instruction and remedial education;

"(ii) bilingual education for individuals with limited-English proficiency;

"(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

"(iv) counseling and assistance in obtaining admission to and obtaining financial assistance for enrollment in institutions of higher learning;

"(C) counseling services and other activities designed to—

"(i) ensure that participants overcome personal problems that would interfere with successful participation; and

"(ii) develop a strong, mutually supportive peer context in which values, goals, cultural heritage, and life skills can be explored and strengthened;

"(D) opportunities to develop the decision-making, speaking, negotiating, and other leadership skills of participants, such as the establishment and operation of a youth council with meaningful decisionmaking authority over aspects of the program;

"(E) activities designed to maximize the value of the participants as future employees and to prepare participants for seeking, obtaining, and retaining unsubsidized employment; and

"(F) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment;

"(5) wage stipends and benefits provided to participants;

"(6) funding of operating expenses and replacement reserves of the property covered by the Youthbuild program;

"(7) legal fees; and

"(8) defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an inplementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) a description of the proposed site for the program;

"(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

"(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(H) a description of how the proposed program will be coordinated with other Federal,

State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

"(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

"(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

"(K) a description of activities that will be undertaken to develop the leadership skills of participants;

"(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

"(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988;

"(N) identification and description of the financing proposed for any—

"(i) rehabilitation;

"(ii) acquisition of the property; or

"(iii) construction;

"(O) identification and description of the entity that will operate and manage the property;

"(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the feasibility of the Youthbuild program;

"(3) the potential for developing a successful Youthbuild program;

"(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);

"(5) the apparent commitment of the applicant to leadership development, education, and training of participants;

"(6) the inclusion of previously homeless tenants in the housing provided;

"(7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988; and

"(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(e) PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities described in paragraphs (1), (2), and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.—The Secretary shall develop a procedure whereby an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

"SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.

"(a) RESIDENTIAL RENTAL HOUSING.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) OCCUPANCY BY LOW- AND VERY LOW-INCOME FAMILIES.—In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

"(B) the remaining units shall be occupied, or available for occupancy, by low-income families;

"(2) TENANT PROTECTIONS.—

"(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for homeless individuals and members of very low-income and low-income families;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)); and

"(iv) provide for the maintenance of a written waiting list in the chronological order of application, and give all applicants due consideration in appropriate sequence, notifying applicants promptly of the results of their applications.

"(3) LIMITATION ON RENTAL PAYMENTS.—Tenants in each project shall not be required to pay rent in excess of that in accordance with section 3(a) of the Housing Act of 1937.

"(4) TENANT PARTICIPATION PLAN.—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(b) TRANSITIONAL HOUSING.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent limitations imposed on comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

"(c) LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.—

"(1) MONTHLY RENTAL LIMITATION.—Aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on the equity investment, if any, of the project owner.

"(2) PROFIT LIMITATIONS ON PARTNERS.—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

"(A) not more than a 6 percent return on their equity investment from project operations; and

"(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

"(d) HOMEOWNERSHIP.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of either subtitle B or subtitle C of this title.

"(e) RESTRICTIONS ON CONVEYANCE.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

"(f) CONVERSION OF TRANSITIONAL HOUSING.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

"(g) PERIOD OF RESTRICTIONS.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

"SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.

"(a) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual shall be eligible to participate in a Youthbuild program receiving assistance under this subtitle if such individual is—

"(A) 16 to 24 years of age, inclusive;

"(B) economically disadvantaged; and

"(C) an individual who has dropped out of high school.

"(2) EXCEPTIONS.—Not more than 25 percent of the participants in a Youthbuild program receiving assistance under this subtitle may be individuals who—

"(A) do not meet the requirement of paragraph (1)(B), but who are members of low-income families; or

"(B) do not meet the requirement of paragraph (1)(C), but have educational needs despite the attainment of a high school diploma or its equivalent.

"(3) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

"(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A Youthbuild program receiving assistance under this subtitle must be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in section 454(b)(4)(B) through (F) of this subtitle.

"(c) AUTHORITY RESTRICTION.—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

"(d) STATE AND LOCAL STANDARDS.—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

"(e) WAGES, LABOR STANDARDS, AND NONDISCRIMINATION.—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. Nothing in this section shall be construed to prevent recipients from using funds from other sources to pay reasonable wages and benefits at a higher level if appropriate.

"SEC. 457. DEFINITIONS.

"As used in this subtitle:

"(1) ADJUSTED INCOME.—The term 'adjusted income' has the meaning given the term in section 3(b)(5) of the United States Housing Act of 1937.

"(2) APPLICANT.—The term 'applicant' means a public or private nonprofit agency, such as—

"(A) a community-based organization;

"(B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

"(C) a community action agency;

"(D) a State and local housing development agency, including an agency of an Indian tribe;

"(E) a community development corporation;

"(F) a State and local youth service and conservation corps, including such a service or corps conducted by an Indian tribe; and

"(G) any other entity eligible to provide education and employment training under other Federal employment training programs.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization that—

"(A) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

"(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

"(4) ECONOMICALLY DISADVANTAGED.—The term 'economically disadvantaged' has the same meaning given the term in section 4(8) of the Job Training Partnership Act.

"(5) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual—

"(A) who is neither attending any school nor subject to a compulsory attendance law; and

"(B) who has not received a secondary school diploma or a certificate of equivalency for such diploma.

Such term does not include any individual who has attended secondary school at any time during the preceding 6 months.

"(6) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(7) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, including an agency of an Indian tribe, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

"(8) INCOME.—The term 'income' has the meaning given the term in section 3(b)(4) of the United States Housing Act of 1937.

"(9) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).

"(10) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

"(11) LIMITED-ENGLISH PROFICIENCY.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

"(12) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term 'lower income families' in section 3(b)(2) of the United States Housing Act of 1937.

"(13) VERY LOW-INCOME FAMILY.—The term 'very low-income family' means families whose income does not exceed 50 percent of the median family income determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

"(14) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(15) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

"(16) RELATED FACILITIES.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities;

"(17) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(18) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, or any other territory or possession of the United States.

"(19) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

"(20) YOUTHBUILD PROGRAM.—The term 'Youthbuild program' means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

"SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE.

"(a) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

"(b) SPONSOR ASSISTANCE.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle.

"(c) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(d) RESERVATION OF FUNDS.—The Secretary shall reserve 5 percent of the amounts available in each fiscal year under section 402 to carry out subsections (b) and (c) of this section.

"SEC. 459. CONTRACTS.

"Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies, including agencies of Indian tribes, and private organizations.

"SEC. 460. REGULATIONS.

"The Secretary shall issue any regulations necessary to carry out this subtitle.".

SEC. 404. TRANSFER OF SCATTERED SITE PUBLIC AND INDIAN HOUSING TO THE HOPE PROGRAM.

(a) AMENDMENT TO THE UNITED STATES HOUSING ACT OF 1937.—Sections 303(b)(2) and 304(d) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa-2(b)(2) and 42 U.S.C. 1437aaa-3(d)) are each amended by striking "(not including scattered site single family housing of a public housing agency)".

(b) AMENDMENT TO THE CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12896(4)) is amended by striking "(including scattered site single family properties, and" and inserting "(excluding public or Indian housing under the United States Housing Act of 1937 and including".

SEC. 405. ELIGIBILITY OF OTHER FEDERAL PROPERTY FOR THE HOPE PROGRAMS.

Sections 426(3)(D) and 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D) and 42 U.S.C. 12896(4)) are amended by inserting after "Corporation," the following: "the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency,".

TITLE V—HOUSING ASSISTANCE

Subtitle A—Public and Indian Housing

SEC. 501. AUTHORIZATIONS.

(a) PUBLIC HOUSING OPERATING SUBSIDIES.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $2,528,400,000 for fiscal year 1993 and $2,609,308,800 for fiscal year 1994.".

(b) SET-ASIDE FOR VACANCY REDUCTION PROGRAM.—Section 14(p)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(5)) is amended to read as follows:

"(5) Of any amounts available for allocation under this section to large public housing agencies pursuant to subsection (k)(2), not more than $25,000,000 shall be available in fiscal year 1993 and not more than $25,000,000 shall be available in fiscal year 1994 for carrying out this subsection.".

(c) PUBLIC HOUSING RESIDENT MANAGEMENT.—Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) FUNDING.—Of amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $5,000,000 for each of the fiscal years 1993 and 1994.".

(d) PUBLIC HOUSING FAMILY INVESTMENT CENTERS.—Section 22(k) of the United States Housing Act of 1937 (42 U.S.C. 1737t(k)) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $26,935,200 for fiscal year 1993 and $27,797,126 for fiscal year 1994.".

(e) PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT GRANTS.—Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriations Acts, of the amounts made available for public housing grants under section 5(c) of the United States Housing Act of 1937, there shall be set aside to carry out this section $15,700,000 for fiscal year 1993 and $16,202,400 for fiscal year 1994. Any amount appropriated pursuant to such section 5(c) and authorized for use under this subsection shall remain available until expended.".

(f) INDIAN PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT DEMONSTRATION PROGRAM.—Section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z-6 note) is amended by striking "$5,000,000 in fiscal year 1991 and $5,200,000 in fiscal year 1992" and inserting "$5,200,000 in fiscal year 1993 and $5,366,400 in fiscal year 1994".

SEC. 502. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) INDEPENDENT MANAGEMENT ASSESSMENT.—Section 6(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(2)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by inserting after subparagraph (A) the following:

"(B) The Secretary shall, upon designating a public housing agency as troubled pursuant to subparagraph (A), provide for an on-site, independent assessment of the management situation of the agency. The independent assessment shall be carried out by a team of knowledgeable individuals selected by the Secretary (hereafter referred to in this section as the 'assessment team') with expertise in public housing and real estate management. To the extent the Secretary deems appropriate (given an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (i) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory; (ii) residents of the agency are involved in and informed of significant management decisions; and (iii) any developments in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24. In conducting its independent assessment, the assessment team shall consult with the residents as well as with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies."; and

(3) in subparagraph (C), as redesignated by paragraph (1)—

(A) by inserting after the term "agency" the following: ", after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency's assessment team.";

(B) by striking "setting forth" and inserting: "Such agreement shall set forth"; and

(C) by inserting before the second sentence: "To the extent the Secretary deems appropriate (given an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency, including resident representation on the governing body of the agency, where appropriate.".

(b) ADDITIONAL STATUTORY REMEDIES.—Section 6(j)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)(A)) is amended—

(1) in clause (i), by inserting after "agents" the first place it appears the following: "(which may be selected by existing tenants through administrative procedures established by the Secretary)";

(2) at the end of clause (ii), by striking "and";

(3) by redesignating clause (iii) as clause (iv);

(4) by inserting after clause (ii) the following:

"(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that these agencies or firms may be needed to oversee implementation of assistance made available under section 14; and"; and

(5) by inserting at the end the following new sentence: "Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions specified above. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.".

(c) MANDATORY ACTION.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) The Secretary shall take 1 or more of the actions specified under subparagraph (A) with respect to a public housing agency that has (i) been designated as troubled pursuant to paragraph (2)(A) for 3 consecutive years, or (ii) substantially defaulted pursuant to subparagraph (A) in a manner that is contributing to the substantial deterioration of living conditions in developments administered by the agency. Residents of the public housing agency may petition for the appointment of a receiver pursuant to subparagraph (A)(ii) if the conditions prescribed in the preceding sentence are met and if the Secretary, after formal request, fails to act in a timely manner.

"(C) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.".

(d) AUTHORIZATION.—Section 6(j) (42 U.S.C. 1437d(j)) of the United States Housing Act of 1937 is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

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

"(4) Of amounts made available for financial assistance under section 14, the Secretary may use to carry out paragraphs (2) and (3) not more than $25,000,000 for each of fiscal years 1993 and 1994.".

(e) ANNUAL REPORTS.—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as redesignated by subsection (d)(1), is amended by inserting before the semicolon: ", including an accounting of the authorized funds that have been expended to support such actions".

(f) APPLICABILITY.—

(1) ASSESSMENT OF RESIDENT MANAGEMENT CORPORATIONS.—Section 6(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(1)) is amended—

(A) in the first sentence, by inserting before the period "and resident management corporations";

(B) in the third sentence, after "agencies", by inserting "and resident management corporations"; and

(C) in the fourth sentence, by inserting before the period "for public housing agencies".

(2) PROCEDURES.—Section 6(j)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(C) The provisions of this paragraph shall be applied by the Secretary to resident management corporations as well as public housing agency.".

SEC. 503. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 24. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

"(a) PROGRAM AUTHORITY.—The Secretary may make—

"(1) planning grants to enable applicants to develop revitalization programs for severely dis-

tressed public housing in accordance with this section; and

"(2) implementation grants to carry out revitalization programs for severely distressed public housing in accordance with this section.

"(b) DESIGNATION OF ELIGIBLE PROJECTS.—

"(1) IDENTIFICATION.—Not later than 90 days after the date of enactment of this section, public housing agencies shall identify, in such form and manner as the Secretary may prescribe, those public housing projects that they consider to be severely distressed public housing for purposes of receiving assistance under this section.

"(2) REVIEW BY SECRETARY.—The Secretary shall review the projects identified pursuant to paragraph (1) to ascertain whether the projects are severely distressed housing as defined in subsection (i)(5). Not later than 180 days after the date of enactment of this section, the Secretary shall publish a list of those projects that are severely distressed public housing.

"(3) APPEAL OF SECRETARY'S DETERMINATION.—The Secretary shall establish procedures for public housing agencies to appeal the Secretary's determination that a project identified by a public housing agency is not severely distressed.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—The Secretary may make planning grants to applicants for the purpose of developing revitalization programs for severely distressed public housing under this section.

"(2) AMOUNT.—The amount of a planning grant under this section may not exceed $200,000 per project, except that the Secretary may for good cause approve a grant in a higher amount.

"(3) ELIGIBLE ACTIVITIES.—A planning grant may be used for activities to develop revitalization programs for severely distressed public housing, including—

"(A) studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options;

"(B) the provision of technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes;

"(C) improvements to stabilize the development, including security investments;

"(D) the conducting of workshops to ascertain the attitudes and concerns of the neighboring community;

"(E) preliminary architectural and engineering work;

"(F) planning for economic development, job training and self-sufficiency activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) designing a suitable replacement housing plan, in situations where partial or total demolition is considered;

"(H) planning for necessary management improvements; and

"(I) preparation of an application for an implementation grant under this section.

"(4) APPLICATIONS.—An application for a planning grant shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed, the schedule for completing the activities, the personnel necessary to complete the activities and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(5) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident interest and involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) whether the development is located in a federally designated enterprise zone, as defined in section 1391 of the Internal Revenue Code of 1986, and to the extent that it is located in such a zone, the development shall receive preference in the award of assistance;

"(G) the extent of the need for and potential impact of the revitalization program; and

"(H) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(6) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(d) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Secretary may make implementation grants to applicants for the purpose of carrying out revitalization programs for severely distressed public housing under this section.

"(2) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out revitalization programs for severely distressed public housing, including—

"(A) architectural and engineering work;

"(B) the redesign, reconstruction or redevelopment of the severely distressed public housing development, including the site on which the development is located;

"(C) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this section as the Secretary may prescribe;

"(D) any necessary temporary relocation of tenants during the activity specified under subparagraph (B);

"(E) payment of legal fees;

"(F) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) necessary management improvements; and

"(H) transitional security activities.

"(3) APPLICATION.—An application for a implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(4) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) whether the development is located in a federally designated enterprise zone, as defined in section 1391 of the Internal Revenue Code of 1986, and to the extent that it is located in such a zone, the development shall receive preference in the award of assistance;

"(G) the extent of the need for and potential impact of the revitalization program; and

"(H) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(5) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(e) EXCEPTIONS TO GENERAL PROGRAM REQUIREMENTS.—

"(1) LONG-TERM VIABILITY.—The Secretary may waive or revise rules established by this title governing rents, income eligibility, and other areas of public housing management, to permit a public housing agency to undertake measures that enhance the long-term viability of a severely distressed public housing project revitalized under this section.

"(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the Federal preferences specified under section 6(c)(4)(A)(i). Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency's jurisdiction.

"(f) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this section, subject to the provisions of this section.

"(2) ECONOMIC DEVELOPMENT.—Not more than an aggregate of $250,000 from amounts made available under subsections (c) and (d) may be used for economic development activities under subsections (c) and (d) for any project.

"(g) MODIFICATION TO REPLACEMENT HOUSING REQUIREMENTS.—An applicant seeking to demolish public housing units in connection with a revitalization program under this section shall comply with the provisions of section 18, except that the applicant shall be permitted to provide not less than 1 additional decent, safe, sanitary and affordable dwelling unit for every 2 public housing dwelling units to be demolished.

"(h) ADMINISTRATION.—For the purpose of carrying out the revitalization of severely distressed public housing in accordance with this section, the Secretary shall establish an Office of Severely Distressed Public Housing Revitalization.

"(i) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

"(1) APPLICANT.—The term 'applicant' means—

"(A) a public housing agency that is not designated as troubled pursuant to section 6(j)(2);

"(B) a public housing agency or private housing management agent selected or receiver appointed pursuant to section 6(j)(3); and

"(C) a public housing agency that is designated as troubled pursuant to section 6(j)(2), if such agency acts in concert with a private nonprofit organization, resident management corporation or other entity approved by the Secretary.

"(2) PRIVATE NONPROFIT CORPORATION.—The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income families.

"(3) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the meaning given the term in section 3(b)(6), except that it does not include any Indian housing authority.

"(4) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project—

"(A) that—

"(i) requires major redesign, reconstruction or redevelopment to correct serious deficiencies in the original design (including appropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

"(ii) is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

"(iii) is in a location for recurrent vandalism and criminal activity (including drug-related criminal activity);

"(iv) has suffered from severe management deficiencies, including absence of effective management systems; and

"(v) where the elements of distress specified in clauses (i) through (iv) cannot be remedied through assistance under other programs, such as section 9 or 14, or through other administrative means; or

"(B) that—

"(i) is owned by a public housing agency designated as troubled pursuant to section 6(j)(2);

"(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more, unless the project or building is vacant because it is awaiting rehabilitation under a modernization program under section 14 that—

"(I) has been approved and funded; and

"(II) as determined by the Secretary, is on schedule and is expected to result in full occupancy of the project or building upon completion of the program; and

"(iii) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

"(j) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

"(1) the number, type, and cost of public housing units revitalized pursuant to this section;

"(2) the status of projects identified as severely distressed public housing pursuant to subsection (b);

"(3) the amount and type of financial assistance provided under and in conjunction with this section; and

"(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.

"(k) TAKE THE BOARDS OFF PUBLIC HOUSING; PROGRAM AUTHORITY.—

"(1) TRANSFER OF ELIGIBLE HOUSING.—The Secretary is authorized, in accordance with the provisions of this subsection through subsection (w), to approve the transfer of vacant or substantially vacant projects, or one or more buildings within projects, that are owned by troubled public housing agencies—

"(A) to private nonprofit organizations that assume ownership of the housing on behalf of public housing residents for the purpose of returning the housing to use as assisted housing; and

"(B) to States, units of general local government, and public housing agencies (other than the agency owning the project) that—

"(i) assume ownership of the housing on their own behalf; or

"(ii) apply on behalf of private or public nonprofit organizations that will assume ownership of the housing for the purpose of providing affordable rental or homeownership opportunities.

"(2) REDEVELOPMENT GRANTS.—The Secretary is authorized to make redevelopment grants under subsection (n) in connection with the transfer of eligible housing to an ownership entity.

"(l) ELIGIBLE HOUSING.—

"(1) IN GENERAL.—

"(A) QUALIFYING HOUSING.—Projects, or one or more buildings within projects, shall be eligible housing if—

"(i) the project is owned by a troubled public housing agency;

"(ii) the project, or building or buildings, as appropriate, has a vacancy rate, as determined by the Secretary, of 50 percent or more; and

"(iii) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible.

"(B) EXCLUSION OF HOUSING UNDERGOING MODERNIZATION.—Projects and buildings within projects shall not be eligible housing if they are vacant because they are awaiting rehabilitation under a modernization program under section 14 that—

"(i) has been approved and funded; and

"(ii) as determined by the Secretary, is on schedule and is expected to result in full occupancy of the project or building upon completion of the program.

"(2) LIST OF POTENTIAL ELIGIBLE PROJECTS.—To assist applicants in identifying potential eligible housing, the Secretary shall from time to time issue a listing of all projects that have a vacancy rate, as determined by the Secretary, of 20 percent or more. Failure to list a project shall not prevent the project, or one or more buildings within the project, from being eligible housing if it meets the requirements of this subsection.

"(m) ELIGIBLE APPLICANTS.—

"(1) IN GENERAL.—Priority applicants and other applicants may submit applications as provided in subsection (o) for the transfer of eligible housing under subsection (k) and for a redevelopment grant under subsection (n).

"(2) PRIOR NOTICE OF OTHER APPLICANT INTENT TO APPLY.—No other applicant may submit an application under subsection (o)—

"(A) unless the applicant has provided such public notice of its intent to apply as the Secretary shall prescribe; and

"(B) until the expiration of the 6-month period beginning on the date that the public notice is first provided.

"(3) FIRST RIGHT TO ACQUIRE OR MANAGE ELIGIBLE HOUSING.—

"(A) PREFERENCE IN ACQUIRING OR MANAGING ELIGIBLE HOUSING.—Except as provided by subparagraph (C), a resident council seeking approval to transfer management of eligible housing (as defined in subsection (x)(3)), and a priority applicant seeking to acquire ownership of eligible housing under subsections (k) through (w), shall be given the opportunity to manage or acquire the housing (as appropriate) before other applicants are given the opportunity to acquire the same housing.

"(B) RETENTION OF FIRST RIGHT TO ACQUIRE.—A resident council that submits an application for the transfer of management of eligible housing in accordance with subtitle A, and a priority applicant that submits an application under subsection (o), shall retain the first right to manage or acquire the housing (as appropriate) as provided by subparagraph (A) if—

"(i) the Secretary deems the application approvable;

"(ii) the resident council or the priority applicant does not receive a rehabilitation grant or a redevelopment grant under subsection (n) (as appropriate) because of insufficient grants funds; and

"(iii) the Secretary does not determine that the application is no longer approvable.

"(C) LOSS OF FIRST RIGHT TO ACQUIRE.—If another applicant submits an application to acquire eligible housing for which no resident council or priority applicant has applied to manage or acquire (as appropriate), but the other applicant does not receive a requested redevelopment grant under subsection (n) because of insufficient grant funds, no resident council or priority applicant shall have a first right to manage or acquire the housing (as appropriate), except if the Secretary determines that the application from the other applicant is no longer approvable.

"(n) REDEVELOPMENT GRANTS.—

"(1) AUTHORITY TO MAKE.—The Secretary is authorized to make redevelopment grants to priority applicants and other applicants in connection with the transfer of eligible housing under subsection (k)(1).

"(2) RELATIONSHIP TO SECTION 14.—Section 14 shall not apply to redevelopment grants under

this section. The Secretary shall establish such requirements for these grants as the Secretary deems appropriate, which may include cost limitations on activities under subsections (k) through (w) not exceeding the per-unit cost limit applicable to the comprehensive grant program under subsection (k)(2). The Secretary may only make an activity eligible for funding under this section if the activity would be eligible for funding by a public housing agency under section 14.

"(3) MATCHING REQUIREMENT FOR OTHER APPLICANTS.—Each other applicant shall assure that contributions equal to not less than 25 percent of the cost of eligible activities funded by redevelopment grants shall be provided for such activities from sources other than redevelopment grants under subsection (k)(2). Contributions shall be in such form as the Secretary may approve.

"(o) APPLICATION.—

"(1) FORM AND PROCEDURES.—

"(A) IN GENERAL.—Applications shall be submitted to the Secretary in such form and in accordance with such procedures as the Secretary shall establish.

"(B) PRIORITY APPLICANTS.—Priority applicants shall submit an application that requests—

"(i) approval of the transfer of eligible housing under subsection (k)(1)(A); and

"(ii) a redevelopment grant under subsection (n).

"(C) OTHER APPLICANTS.—Other applicants shall submit an application that—

"(i) requests approval of the transfer of eligible housing under subsection (k)(1)(B); and

"(ii) proposes the redevelopment of the housing which may include a request for a redevelopment grant under subsection (n).

"(2) RATING AND SELECTION.—The Secretary shall, by regulation, establish criteria for a national competition for applicants under subsections (k) through (w). These criteria shall require the Secretary—

"(A) to rate separately—

"(i) all priority applicants, using the rating criteria contained in subparagraph (3)(B); and

"(ii) all other applicants, using the rating criteria contained in paragraph (4)(B); and

"(B) to make selections from a single list of all applicants, based on the ratings provided under subparagraph (A).

"(3) PRIORITY APPLICANTS.—

"(A) MINIMUM REQUIREMENTS.—The Secretary shall require that an application from a priority applicant contain at a minimum—

"(i) a description of the applicant, including documentation that it is a priority applicant;

"(ii) documentation of the capacity of the applicant to own and operate the eligible housing, or if the applicant is not to operate the housing, documentation of the capacity of the entity that will do so;

"(iii) documentation of the capacity of the applicant to carry out the proposed redevelopment, or if the applicant is not to carry out the redevelopment, documentation of the capacity of the entity that will do so;

"(iv) documentation of resident support for the program proposed in the application;

"(v) documentation that the property proposed to be transferred is eligible housing;

"(vi) a plan for carrying out the responsibilities of the applicant for the redevelopment of the eligible housing;

"(vii) a plan for carrying out the responsibilities of the applicant for the operation of the eligible housing;

"(viii) the basis for the estimate of the request for a redevelopment grant under subsection (n), including—

"(I) the estimate of the housing's need under the public housing agency's comprehensive plan under section 14(e)(1); and

"(II) an explanation, where appropriate, if a higher amount than planned by the agency is being requested;

"(ix) if the applicant proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to it;

"(x) an analysis showing that the proposed redevelopment is feasible and will result in full occupancy of the housing within three years after ownership of the housing passes to the ownership entity, or such shorter period as the applicant may propose;

"(xi) if the applicant proposes to use funds other than under subsections (k) through (w), evidence of commitment of those funds;

"(xii) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(xiii) such other information as the Secretary may require.

"(B) RATING CRITERIA.—The Secretary shall use the following criteria for rating priority applicants—

"(i) the extent of resident support for the program proposed in the application;

"(ii) the extent of the capacity of the applicant to own and operate the housing, or if the applicant is not to operate the housing, the extent of the capacity of the entity that will do so;

"(iii) the extent of the capacity of the applicant to carry out the proposed redevelopment, or if the applicant is not to carry out the redevelopment, the extent of the capacity of the entity that will do so;

"(iv) the quality of the plan for redeveloping the eligible housing;

"(v) the quality of the plan for the operation of the eligible housing;

"(vi) the extent to which the proposed redevelopment will result in the long-term viability of the housing at a reasonable cost;

"(vii) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency;

"(viii) the extent to which the applicant will provide funding for redevelopment activities eligible under subsection (n) from sources other than under subsections (k) through (w); and

"(ix) such other criteria as the Secretary may require.

"(4) OTHER APPLICANTS.—

"(A) MINIMUM REQUIREMENTS.—The Secretary shall require that applications from other applicants contain at a minimum—

"(i) a description of the entity that will own the housing;

"(ii) documentation of the capacity of the ownership entity to own and operate the housing, or if the entity is not to operate the housing, documentation of the capacity of the entity that will do so;

"(iii) documentation of the capacity of the ownership entity to carry out the reoccupancy or homeownership plan, or if that entity is not to carry out these functions, documentation of the capacity of the entity that will do so;

"(iv) documentation of resident support for the program proposed in the application;

"(v) documentation that the property proposed to be transferred is eligible housing;

"(vi) if the applicant requests a redevelopment grant under subsection (n)—

"(I) documentation of the capacity of the ownership entity to carry out the proposed redevelopment, or if that entity is not to carry out the redevelopment, documentation of the capacity of the entity that will do so;

"(II) the basis for the estimate of the request for the grant, including—

"(aa) the estimate of the housing's need under the public housing agency's comprehensive plan under section 14(e)(1); and

"(bb) an explanation, where appropriate, if a higher amount than planned by the agency is being requested; and

"(III) an analysis showing that the proposed redevelopment is feasible;

"(vii) if the applicant proposes to carry out redevelopment activities only with funds other than under subsections (k) through (w)—

"(I) an analysis showing that the proposed redevelopment is feasible; and

"(II) documentation of the capacity of the ownership entity to carry out the proposed redevelopment, or if that entity is not to carry out the redevelopment, documentation of the capacity of the entity that will do so;

"(viii) a description of the proposed use of the housing and the composition of the prospective residents or homeowners, as appropriate;

"(ix) for housing to be used for rental purposes, a plan for the reoccupancy of the housing, including a schedule for reoccupancy over a period not to exceed three years after ownership of the housing passes to the ownership entity;

"(x) for housing to be used for homeownership opportunities for eligible families, a homeownership program, including a schedule for the transfer of all units in the housing (other than units specified in subsections (s)(2)(B) (i) and (ii)) over a period not to exceed three years after ownership of the housing passes to the ownership entity;

"(xi) for housing to be used for homeownership opportunities for eligible families, a description of the proposed financing for acquisition by eligible families of ownership interests in, or shares representing, units in the housing;

"(xii) the basis for the request for replacement housing under subsection (q)(4) and for transitional operating subsidy under subsection (q)(3).

"(xiii) if the applicant proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to it;

"(xiv) an analysis showing that the proposed reoccupancy or homeownership program, as appropriate, is feasible and will result in full occupancy of the housing within three years after ownership of the housing passes to the ownership entity, or such shorter period as the applicant may propose;

"(xv) if the applicant proposes to use funds other than under subsections (k) through (w), evidence of commitment of those funds;

"(xvi) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located;

"(xvii) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

"(xviii) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (k)(3); and

"(xix) such other information as the Secretary may require.

"(B) RATING CRITERIA.—The Secretary shall use the following criteria for rating other applicants under subsections (k) through (w)—

"(i) the extent of resident support for the program proposed in the application;

"(ii) the extent of the capacity of the proposed ownership entity to own and operate the hous-

ing, or if the entity is not to operate the housing the extent of the capacity of the entity that will do so;

"(iii) the extent of the capacity of the proposed ownership entity to carry out the proposed redevelopment, or if the entity is not to carry out the redevelopment, the extent of the capacity of the entity that will do so;

"(iv) the quality of the plan for redeveloping the eligible housing;

"(v) the extent to which the proposed redevelopment will result in the long-term viability of the housing at a reasonable cost;

"(vi) the quality of the proposed reoccupancy plan or the homeownership program, as appropriate;

"(vii) if special needs populations, such as the homeless, are proposed as new residents, the extent to which services proposed are appropriate to the needs of those populations;

"(viii) the extent to which the applicant provides, or arranges for the provision of, resources other than under subsections (k) through (w) as part of a comprehensive redevelopment plan for the neighborhood in which the housing is located;

"(ix) the extent to which the applicant will provide funding for redevelopment activities eligible under subsection (n) from sources other than under subsections (k) through (w);

"(x) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency; and

"(xi) such other criteria as the Secretary may require.

"(p) HOUSING ACQUIRED BY PRIORITY APPLICANTS.—

"(1) IN GENERAL.—

"(A) DUTY TO TRANSFER HOUSING.—After the Secretary approves an application submitted by a priority applicant, the public housing agency shall transfer ownership of the eligible housing to the ownership entity.

"(B) CONTRACTUAL RELATIONSHIP.—The Secretary shall enter into a contract with the ownership entity which shall—

"(i) give the ownership entity the right to receive operating subsidies under paragraph (2) and capital improvement funding under paragraph (3);

"(ii) require the ownership entity to carry out all ownership responsibilities for the eligible housing, as provided in or required by the contract; and

"(iii) provide for redevelopment funding under subsection (n).

"(C) RELATIONSHIP TO 1937 ACT.—When ownership of eligible housing acquired by priority applicants passes to the applicant, the housing is no longer public housing for purposes of this Act, and except as provided in subsections (k) through (w), none of the provisions of this Act that govern public housing shall apply.

"(D) SPECIFIC REQUIREMENTS.—The contract shall require the ownership entity to carry out such responsibilities for operating the housing that apply to public housing agencies that own public housing projects as are determined by the Secretary. These responsibilities shall include maintaining the units in decent, safe, and sanitary condition in accordance with standards established or adopted by the Secretary; determining whether applicants for admission to a unit in the housing are very low-income families or, subject to limitations equivalent to those in section 16 as applied by the Secretary to the housing, low-income families; determining the amount of rent in accordance with section 3(a); assigning applicants to units in accordance with a tenant selection plan that is consistent with the nondiscrimination requirements in title VI of the Civil Rights Act of 1964; and applying the selection preferences under section 6(c)(4)(A). The contract shall require the ownership entity to terminate tenancy in accordance with the procedures applicable to the section 8 new construction program. The contract shall permit, but not require, the ownership entity to select applicants from the public housing waiting list maintained by the public housing agency.

"(2) OPERATING SUBSIDIES.—

"(A) AUTHORITY TO PROVIDE.—The Secretary is authorized to make operating subsidies under section 9 available to priority applicants that acquire eligible housing.

"(B) AMOUNT.—The Secretary shall establish the amount of the operating subsidies in paragraph (1), based on the Secretary's determination of the share for the housing under section 9 (including the share of any reserves established by the agency).

"(C) EFFECT ON PHA GRANT.—Operating subsidies for the public housing agency transferring the eligible housing shall be reduced in accordance with the requirements of section 9.

"(3) ANNUAL CAPITAL IMPROVEMENT FUNDING.—

"(A) AUTHORITY TO PROVIDE.—The Secretary is authorized to make capital improvement funding available annually from amounts under section 14 to priority applicants that acquire eligible housing.

"(B) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the funding in subparagraph (A), based on the Secretary's determination of the share for the housing under the accrual portion of the comprehensive grant formula in accordance with section 14.

"(C) EFFECT ON PHA GRANT.—The comprehensive grant formula amount for the public housing agency transferring the housing shall be reduced in accordance with the requirements of section 14.

"(D) RELATIONSHIP TO SECTION 14.—Section 14 shall not apply to capital improvement funding under this subsection. The Secretary shall establish such requirements for this funding as the Secretary deems appropriate. The Secretary may only make an activity eligible for funding under this section if the activity would be eligible for funding by a public housing agency under section 14.

"(4) NO REPLACEMENT HOUSING AT TRANSFER OF OWNERSHIP.—No replacement housing shall be provided in connection with the transfer of eligible housing to priority applicants under subsections (k) through (w).

"(5) AUTHORITY TO APPROVE SUBSEQUENT ALTERNATIVE USE; REPLACEMENT HOUSING.—The ownership entity shall continue to use the housing in accordance with subsections (k) through (w), unless the Secretary approves a request submitted by the entity for an alternative use. The Secretary may approve such a request only if—

"(A) the Secretary determines that—

"(i) the housing is no longer suitable, or is not needed, for low-income families; and

"(ii) the alternative use will principally benefit low-income families; and

"(B) at the same time as approval of the request under this subsection, the Secretary makes assistance available to the public housing agency that previously owned the housing to fund one voucher under section 8(o) for each unit approved for alternative use.

"(6) RELATIONSHIP TO OTHER PROGRAM AUTHORITIES.—

"(A) HOMEOWNERSHIP.—After a transfer of ownership to a priority applicant in accordance with subsections (k) through (w), the housing shall remain eligible for assistance under the HOPE for Public and Indian Housing Homeownership program under title III and for sale under section 5(h) of this Act.

"(B) SELF-SUFFICIENCY.—Where the application proposes a program to enable residents to achieve economic independence and self-sufficiency consistent with the objectives of the program under section 23, and demonstrates that the priority applicant has the capacity to carry out a self-sufficiency program, the Secretary may approve such a program. Where such a program is approved, the Secretary shall authorize the applicant to adopt policies consistent with section 23(d) (maximum rents and escrow savings accounts) and section 23(e) (effect of increases in family income).

"(7) BONDING AND INSURANCE.—Before transfer of eligible housing by the public housing agency, the ownership entity shall obtain fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary against loss, theft, embezzlement, or fraudulent acts on the part of the ownership entity or its employees.

"(8) RESTRICTION ON DISPLACEMENT BEFORE TRANSFER OF HOUSING.—

"(A) IN GENERAL.—The public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing beginning on the date that an application under subsection (o) is submitted by a priority applicant, and continuing through either transfer of ownership of the housing or if the application is disapproved, the date of the disapproval.

"(B) EXCEPTION FOR TEMPORARY RELOCATION.—Subparagraph (A) shall not apply to the temporary relocation of residents in connection with modernization activities under section 14.

"(q) HOUSING ACQUIRED BY OTHER APPLICANTS.—

"(1) DUTY TO TRANSFER HOUSING.—After the Secretary approves an application submitted by another applicant, the public housing agency shall transfer ownership of the eligible housing to the ownership entity.

"(2) CONTRACTUAL RELATIONSHIP.—

"(A) OWNERSHIP ENTITY AND HUD.—Where the other applicant and the ownership entity are the same, the Secretary shall enter into a contract with the ownership entity, which shall—

"(i) give the ownership entity the right to receive transitional operating subsidies under paragraph (3);

"(ii) require the ownership entity to carry out all ownership responsibilities for the housing—

"(I) as provided in subsection (r) (in the case of housing to be used for rental housing) or subsection (s) (in the case of housing to be used for homeownership opportunities for eligible families); and

"(II) as provided in, or required by, the contract; and

"(iii) provide for redevelopment funding under subsection (n).

"(B) OTHER APPLICANT AND HUD.—Where the other applicant is not the ownership entity, the Secretary shall enter into a contract with the applicant, which shall—

"(i) provide that the applicant shall receive transitional operating subsidies under paragraph (3) and redevelopment funding under subsection (n), and shall promptly transfer these amounts to the ownership entity;

"(ii) require the applicant to enter into a contract with the ownership entity under which the ownership entity is required to carry out all ownership responsibilities for the housing—

"(I) as provided in subsection (r) (in the case of housing to be used for rental housing) or subsection (s) (in the case of housing to be used for homeownership opportunities for eligible families); and

"(II) as provided in, or required by, the contract; and

"(iii) require the applicant to take such steps as the Secretary considers appropriate to ensure that the ownership entity fulfills its obligations

under the contract, including the taking of such sanctions as the Secretary may require in the event of a violation of the contract.

"(3) RELATIONSHIP TO 1937 ACT.—When ownership of eligible housing acquired by other applicants passes to the ownership entity, the housing is no longer public housing for purposes of this Act, and except as provided in subsections (k) through (w), none of the provisions of this Act that govern public housing shall apply.

"(4) TRANSITIONAL OPERATING SUBSIDY.—

"(A) AUTHORITY TO PROVIDE.—The Secretary is authorize to make operating subsidies under section 9 available to ownership entities that acquire eligible housing. These subsidies may be made for such period as may be approved by the Secretary, but generally not to exceed three years after ownership of the housing passes to the ownership entity.

"(B) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the operating subsidies in paragraph (1) based on the Secretary's determination of the share for the housing under section 9 (including the share of any reserves established by the agency). The amount determined may—

"(i) reflect such differences as the Secretary deems appropriate for units that were occupied or were vacant when ownership of the housing passed to the ownership entity; and

"(ii) be phased out, as determined by the Secretary, in accordance with the schedule for reoccupancy or homeownership, as appropriate, that was approved in the application.

"(C) NO SUBSIDY.—No operating subsidies may be paid with respect to any unit that—

"(i) was occupied when ownership of the eligible housing passed to the ownership entity, but later became vacant; or

"(ii) was vacant when ownership of the eligible housing passed to the ownership entity, but later became occupied.

The Secretary may also terminate any operating subsidies paid with respect to a unit that was vacant when ownership of the housing passed to the ownership entity, and that remains vacant longer than the time specified in the reoccupancy or homeownership plan (as appropriate) approved in the application.

"(D) EFFECT ON PHA GRANT.—Operating subsidies for the public housing agency transferring the eligible housing shall be reduced in accordance with the requirements of section 9.

"(5) REPLACEMENT HOUSING.—When the application is approved, the Secretary shall make available to the public housing agency one voucher for each unit of eligible housing transferred to the ownership entity. The agency shall use these vouchers consistent with section 8(o) and make them available consistent with paragraph (6).

"(6) VOUCHERS.—

"(A) WHO MAY RECEIVE.—At the end of the 3-year period after ownership of the eligible housing passes to the ownership entity, or such other period as the Secretary may approve with respect to the reoccupancy or homeownership plan (as appropriate), the public housing agency shall make a voucher under paragraph (5) available to each eligible family or individual who—

"(i) resided in the eligible housing when ownership passed to the ownership entity; and

"(ii) currently resides in the housing.

"(B) USE.—Residents eligible to receive vouchers under subparagraph (A) may use them to remain in the housing or to move to other property. The public housing agency may also condition the initial use of these vouchers for units in the housing, to make the units affordable to families that agree to move into them.

"(7) RESTRICTION ON DISPLACEMENT BEFORE TRANSFER OF HOUSING.—

"(A) IN GENERAL.—The public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing beginning on the date that an application under subsection (o) is submitted by another applicant, and continuing through either transfer of ownership of the housing or if the application is disapproved, the date of the disapproval.

"(B) EXCEPTION FOR TEMPORARY RELOCATION.—Subparagraph (A) shall not apply to the temporary relocation of residents in connection with modernization activities under section 14.

"(r) OTHER APPLICANTS: HOUSING TO BE USED FOR RENTAL PURPOSES.—

"(1) LIMITATIONS AND RESTRICTIONS.—Eligible housing that is acquired for use as rental housing under subsection (k)(1)(B) shall meet the requirements of this section for the 15-year period beginning on the date that ownership of the housing passes to the ownership entity.

"(2) RENTS FOR EXISTING RESIDENTS.—Residents of eligible housing immediately before the date upon which ownership passes to the ownership entity shall pay rent as provided in section 3(a) during the period specified in the reoccupancy plan contained in the application and as approved by the Secretary.

"(3) NEW RESIDENTS.—

"(A) INCOME LIMITS FOR ADMISSION.—On and after the date upon which the ownership of eligible housing passes to the ownership entity, dwelling units in the housing shall be rented only to families that at the time of initial occupancy have an income not exceeding 60 percent of the median income for the area, as determined by the Secretary with adjustment for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

"(B) RENTS.—Families admitted to the housing on and after the date upon which ownership passes to the ownership entity shall pay as rent an amount not greater than the existing fair market rent established for comparable units in the area, as established by the Secretary under section 8.

"(4) NONDISCRIMINATION AGAINST CERTIFICATE AND VOUCHER HOLDERS.—The ownership entity may not refuse to lease to a holder of a voucher or certificate of eligibility under section 8 because of the status of the prospective resident as a holder of such voucher or certificate of eligibility.

"(5) LEASE.—The lease between a resident and an ownership entity shall be for not less than 1 year, unless by mutual agreement between the resident and the entity, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(6) TERMINATION OF TENANCY.—An ownership entity shall not terminate the tenancy or refuse to renew the lease of a resident except for serious or repeated violation of the terms and conditions of the lease; for violation of applicable Federal, State, or local law; or for other good cause. Any termination for refusal to renew must be preceded, by not less than 30 days, by the ownership entity's service upon the resident of a written notice specifying the grounds for the action.

"(7) RESIDENT SELECTION.—The ownership entity shall adopt written resident selection policies and criteria that—

"(A) are consistent with the purpose of providing housing for families that meet the income eligibility requirements of subsection (r)(3);

"(B) are reasonably related to eligibility to lease a unit, and the family's ability to perform the obligations of the lease;

"(C) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A); and

"(D) provide for—

"(i) the selection of residents from a written waiting list in the chronological order of their application, insofar as is practicable; and

"(ii) the prompt notification in writing of any rejected prospective resident of the grounds for any rejection.

"(8) HOUSING STANDARDS.—Housing transferred pursuant to subsections (k) through (w) shall be maintained in compliance with all applicable housing quality standards and local code requirements, as determined by the Secretary.

"(s) OTHER APPLICANTS: HOUSING TO BE USED FOR HOMEOWNERSHIP PURPOSES.—

"(1) IN GENERAL.—Except as provided by paragraph (6) or (7), housing that is acquired for use for homeownership opportunities for eligible families under subsection (k)(1)(B) shall meet the requirements of this section for the 10-year period beginning on the date that ownership of the housing passes to the ownership entity.

"(2) HOMEOWNERSHIP PROGRAM.—

"(A) PROGRAM REQUIRED.—The ownership entity shall have a homeownership program under which eligible families may acquire ownership interests in, or shares representing, units in the housing.

"(B) SCOPE OF PROGRAM.—The program shall cover all the units in the housing, except units occupied by residents who—

"(i) resided in the housing when ownership passed to the ownership entity; and

"(ii)(I) have not chosen, or are not qualified, to participate in the program; and

"(II) continue to rent their units.

"(C) MANNER OF HOMEOWNERSHIP.—Homeownership may be accomplished under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(3) AFFORDABILITY.—A homeownership program shall provide for the establishment of monthly purchase costs (including principal, interest, taxes, and insurance) for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family (as defined in section 3(b)(5)) per month for such costs.

"(4) FINANCING.—Financing for eligible families under the homeownership program may include any sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(5) PROTECTION OF NONPURCHASING FAMILIES.—No resident of eligible housing when ownership of the housing passes to the ownership entity may be evicted by reason of a homeownership program approved under subsections (k) through (w).

"(6) PREVENTION OF WINDFALL PROFIT.—If the first sale of a unit to an eligible family is for less than market value, the homeownership program shall provide for appropriate restrictions to ensure that an eligible family may not receive any undue profit. The plan shall provide for—

"(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

"(B) a plan consistent with section 21(a)(4)(D);

"(C) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the ownership entity, together with a mortgage securing the obligation of the note; or

"(D) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

"(7) HOUSING STANDARDS.—Each unit in eligible housing that is sold for the first time to an eligible family shall, at the time of sale, comply with all applicable housing quality standards and local code requirements, as determined by the Secretary.

"(t) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.—To be eligible to become an ownership entity under subsections (k) through (w), a resident management corporation or resident council—

"(1) shall demonstrate to the Secretary its ability to operate public housing effectively and efficiently, as determined by the Secretary, which shall include evidence of its most recent financial audit; or

"(2) shall arrange for operation of the housing by a qualified management entity.

"(u) PERFORMANCE REVIEW AND COMPLIANCE; RECORDS, REPORTS, AND AUDITS.—

"(1) MONITORING AND ENFORCEMENT BY THE SECRETARY.—The Secretary shall monitor the performance under subsections (k) through (w) of priority applicants and other applicants that are ownership entities. The Secretary is authorized to take any available action, including any action specified in the contracts referred to in subsections (p)(1)(B) and (q)(2)(A), for violations of the requirements of subsections (k) through (w).

"(2) MONITORING AND ENFORCEMENT; OTHER APPLICANTS.—

"(A) PERIODIC REVIEW.—Each other applicant that is not an ownership entity shall, not less frequently than annually, review the activities of any ownership entity on whose behalf it applied under subsections (k) through (w), to assess compliance with the requirements of subsections (k) through (w). This review shall include on-site inspection to determine compliance with housing codes and other applicable regulations.

"(B) ENFORCEMENT BY OTHER APPLICANT.—Each other applicant that is not an ownership entity shall take such steps as are necessary to enforce the provisions of subsections (k) through (w) and to take any available action, including any action specified in the contract referred to in subsection (q)(2)(B), for violations of the requirements of subsections (k) through (w).

"(C) ENFORCEMENT BY THE SECRETARY.—The Secretary is authorized to take any available action against an ownership entity on whose behalf another applicant applied under subsections (k) through (w), or against another applicant that is not an ownership entity, including any action specified by contract, for violations of the requirements of subsections (k) through (w).

"(3) RECORDS, REPORTS, AND AUDITS.—

"(A) IN GENERAL.—

"(i) OWNERSHIP ENTITIES.—Each ownership entity shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the entity of the proceeds of assistance received and to ensure compliance with the requirements imposed under subsections (k) through (w).

"(ii) OTHER APPLICANTS THAT ARE NOT OWNERSHIP ENTITIES.—Each other applicant that is not an ownership entity shall keep such records as may be reasonably necessary to ensure the applicant's compliance with its responsibilities under subsections (k) through (w).

"(B) ACCESS TO DOCUMENTS.—

"(i) BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the ownership entity, or other applicants that are not ownership entities, that are pertinent to assistance received under, the requirements of, subsections (k) through (w).

"(ii) BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records referred to in clause (i) that are pertinent to assistance received under, and the requirements of, subsections (k) through (w).

"(4) REPORTING REQUIREMENTS.—Each ownership entity, and each other applicant that is not an ownership entity, shall submit to the Secretary such reports as the Secretary determines appropriate to carry out the Secretary's responsibilities under subsections (k) through (w), including an annual financial audit.

"(v) NONDISCRIMINATION.—No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under subsections (k) through (w). Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(w) ANNUAL CONTRIBUTIONS.—Notwithstanding the transfer of eligible housing under subsections (k) through (w), or the purchase of a unit in the housing by an eligible family under subsection (s), the Secretary shall continue to pay annual contributions with respect to the housing. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(x) DEFINITIONS.—For purposes of subsections (k) through (w):

"(1) The term 'applicant' means priority applicants and other applicants.

"(2) The term 'eligible family' means for purposes of a homeownership program under subsection (s)—

"(A) a family or individual who resides in eligible housing on the date that ownership of the housing passes to the ownership entity; or

"(B) a low-income family.

"(3) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that meets the requirements of subsection (l).

"(4) The term 'other applicant' means a State, unit of general local government, or public housing agency referred to in subsection (k)(1)(B). Other applicants may also be ownership entities.

"(5) The term 'ownership entity' means—

"(A) the priority applicant that assumes ownership of eligible housing under subsection (k)(1)(A); or

"(B) the other applicant, or private or public nonprofit organization, that assumes ownership of eligible housing under subsection (k)(1)(B).

"(6) The term 'priority applicant' means a private nonprofit organization referred to in subsection (k)(1)(A) that represents, in the determination of the Secretary, either—

"(A) present or former residents of the housing; or

"(B) the current residents of any project owned or operated by the public housing agency that owns the housing.

"(7) The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term shall include resident councils representing residents at a project level, and resident management corporations.

"(8) The term 'public housing agency' has the meaning given the term in section 3(b)(6), except that it does not include Indian housing authorities.

"(9) The term 'public nonprofit organization' means any public nonprofit entity, except the public housing agency that owns the eligible housing.

"(10) The term 'resident council' means any nonprofit organization or association that—

"(A) is representative of the residents of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the eligible housing.

"(11) The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(12) The term 'State' has the meaning given the term in section 3(b)(7), except that it does not include the territories and possessions of the United States, the Trust Territory of the Pacific Islands, and Indian tribes.

"(13) The term 'troubled public housing agency' means a public housing agency that owns or operates 250 or more units and that has been designated as a troubled public housing agency for the current Federal fiscal year, and for the two preceding Federal fiscal years—

"(A) under section 6(j)(2)(i); or

"(B) before the implementation of that authority, under any other procedure for designating troubled public housing agencies that was used by the Secretary and is determined by the Secretary to be appropriate for purposes of subsections (k) through (w).

"(14) The term 'unit of general local government' means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the United States Virgin Islands, American Samoa, or a general purpose political subdivision thereof; and any agency or instrumentality thereof (other than the public housing agency that owns the project) that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to the provisions of subsections (k) through (w).".

SEC. 504. CHOICE IN MANAGEMENT ACT OF 1992.

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end of title I the following new section:

"SEC. 25. CHOICE IN MANAGEMENT.

"(a) SHORT TITLE.—This section may be cited as the 'Choice in Management Act of 1992'.

"(b) FUNDING AUTHORIZATIONS.—

"(1) REHABILITATION AND REDEVELOPMENT GRANTS.—From amounts reserved under section 14(k)(2)(E) for fiscal years 1993 and 1994, the Secretary may reserve not more than $50,000,000 for activities under this section. The Secretary is authorized to make grants to managers and ownership entities to rehabilitate eligible housing in accordance with this section, as appropriate.

"(2) TECHNICAL ASSISTANCE.—The Secretary may use up to 5 percent of the total amount available for any fiscal year under section 14(k)(2)(E) for this subsection to provide, by contract, technical assistance to residents of public housing and resident councils to help them make informed choices about their options for alternative management under this section.

"(c) PROGRAM AUTHORITY.—

"(1) TRANSFER OF MANAGEMENT.—The Secretary is authorized to approve not more than 25 applications submitted for fiscal year 1993 and

fiscal year 1994 by resident councils for the transfer of the management of public housing projects, or one or more buildings within projects, that are owned or operated by troubled public housing agencies, from public housing agencies to alternative managers.

"(2) REHABILITATION AND CAPITAL IMPROVEMENTS.—The Secretary is authorized to make rehabilitation grants and provide capital improvement funding under subsection (e) in connection with the transfer of eligible housing to a manager under this subtitle.

"(d) OPERATING SUBSIDIES.—

"(1) AUTHORITY TO PROVIDE.—The Secretary is authorized to make operating subsidies under section 9 available to managers under this section.

"(2) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the operating subsidies in subsection (a), based on the Secretary's determination of the share for the housing under section 9 (including the share of any reserves established by the agency).

"(3) EFFECT ON PHA GRANT.—Operating subsidies for the public housing agency transferring management shall be reduced in accordance with the requirements of section 9.

"(e) REHABILITATION GRANTS AND CAPITAL IMPROVEMENT FUNDING.—

"(1) REHABILITATION GRANTS FROM THE SECRETARY.—An application under subsection (f) may request approval of amounts set aside under subsection (b) for the rehabilitation of eligible housing under this section. The manager and the Secretary shall enter into a contract governing the use of such assistance.

"(2) ANNUAL CAPITAL IMPROVEMENT FUNDING.—

"(A) AUTHORITY TO PROVIDE.—The Secretary is authorized to make capital improvement funding available annually from amounts under section 14 to managers of eligible housing. In accordance with the contract under subsection (h), the manager shall establish a capital improvements reserve account and deposit each year an amount at least equal to the annual amount of comprehensive grant funds it receives from the Secretary. The amounts in the account may be used only for capital improvements and replacements.

"(B) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the funding in paragraph (1), based on the Secretary's determination of the share for the housing under the comprehensive grant formula in accordance with section 14.

"(C) LIMITATION IN THE CASE OF RECENT REHABILITATION.—Where eligible housing has received rehabilitation funding under subsection (a) or has otherwise been comprehensively modernized within 3 years before the effective date of the contract between the Secretary and the manager for management of the eligible housing, only the accrual portion of the comprehensive grant formula amount shall be available for payment to the manager.

"(D) EFFECT ON PHA GRANT.—The comprehensive grant formula amount for the public housing agency transferring the housing shall be reduced in accordance with the requirements of section 14.

"(3) RELATIONSHIP TO SECTION 14.—Section 14 shall not apply to rehabilitation grants under paragraph (1) or capital improvement funding under paragraph (2). The Secretary shall establish such requirements for these grants and this funding as the Secretary deems appropriate. The Secretary may only make an activity eligible for funding under this section if the activity would be eligible for funding by a public housing agency under section 14.

"(f) APPLICATION.—

"(1) FORM AND PROCEDURES.—

"(A) IN GENERAL.—Applicants shall submit an application for approval to transfer management from the public housing agency to a manager for a grant under subsection (e). Applications shall be submitted to the Secretary by a resident council in such form and in accordance with such procedures as the Secretary shall establish.

"(B) PHA COMMENT AND PROPOSAL.—

"(i) COMMENT ON APPLICATION.—The resident council shall give the public housing agency that owns or operates the housing involved a reasonable opportunity to comment on the application, as the Secretary shall prescribe.

"(ii) PUBLIC HOUSING AGENCY PROPOSAL.—The public housing agency may present to the resident council a proposal for the continued management of the housing by the agency, and the resident council shall give reasonable consideration to any such proposal.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a description of the resident council and documentation of its authority;

"(B) documentation that a majority of the members of the board of the resident council has voted in favor of the proposed transfer of management responsibilities, and a majority of the residents has also voted in favor of the transfer in an election supervised by a disinterested third party;

"(C) a description of the proposed manager and documentation of its capacity to manage the eligible housing (the proposed manager shall be selected by the applicant in accordance with procedures established or approved by the Secretary);

"(D) a plan for carrying out the manager's responsibilities for managing the eligible housing;

"(E) documentation that the proposed project (or building or buildings) is eligible housing;

"(F) documentation that the public housing agency that owns or operates the housing has been given a reasonable opportunity to comment on the program contained in the application, that the agency has been given a reasonable opportunity to present to the resident council a proposal for the continued management of the housing by the agency, and that the resident council has given reasonable consideration to any such proposal;

"(G)(i) where the application includes a request for a rehabilitation grant under subsection (e) (an application involving eligible housing that is 50 percent or more vacant shall include such a request), the basis for the estimate of the amount requested, including—

"(I) the estimate of the eligible housing's need under the public housing agency's comprehensive plan (see section 14(e)(1)); and

"(II) an explanation, where appropriate, if a higher amount than planned by the agency is being requested; or

"(ii) where the application does not include a request for a rehabilitation grant under subsection (e), a demonstration that needs for capital improvements and replacement for the housing can reasonably be expected to be funded from capital improvements funding under subsection (e);

"(H) if the manager proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to it;

"(I) an analysis showing that the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost;

"(J) a certification that the manager will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(K) such other information as the Secretary may require.

"(g) REVIEW AND APPROVAL BY THE SECRETARY.—

"(1) APPLICATIONS THAT DO NOT REQUEST REHABILITATION ASSISTANCE.—In the case of applications that do not include a request for rehabilitation assistance under subsection (e), the Secretary may approve an application that meets the requirements of this subtitle for the transfer of management of public housing.

"(2) APPLICATIONS THAT REQUEST REHABILITATION GRANTS.—In the case of applications that include a request for rehabilitation assistance under subsection (e), the Secretary shall, by regulation, establish selection criteria for a national competition under this subtitle providing for separate rating of applicants under this subtitle and of applicants under this section and selections from a single list of all applicants. The criteria shall include—

"(A) the quality of the plan for rehabilitating the eligible housing;

"(B) the extent of the capacity or potential capacity of the proposed manager to manage the housing and to carry out the rehabilitation program;

"(C) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency;

"(D) the extent to which the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost; and

"(E) such other criteria as the Secretary may require.

"(h) CONTRACT BETWEEN THE SECRETARY AND THE MANAGER.—

"(1) DUTY TO TRANSFER.—After the Secretary approves an application, the public housing agency shall permit the manager to carry out all management responsibilities.

"(2) CONTRACTUAL RELATIONSHIP.—After the Secretary approves an application, the Secretary shall enter into a contract with the manager. The contract shall—

"(A) give the manager the right to receive operating subsidies under subsection (d) and capital improvement funding under subsection (e); and

"(B) require the manager to carry out all management responsibilities for the eligible housing, as provided in or required by the contract.

"(3) SPECIFIC REQUIREMENTS.—The contract shall require the manager to carry out such management responsibilities that apply to public housing agencies that own or operate public housing projects, as are determined by the Secretary. These responsibilities shall include maintaining the units in decent, safe, and sanitary condition in accordance with standards established or adopted by the Secretary; determining whether applicants for admission to a unit in the eligible housing are very low-income families or, subject to the limitations in section 16 as applied by the Secretary to the eligible housing, low-income families; determining the amount of rent in accordance with section 3(a); assigning applicants to units in accordance with a tenant selection plan which is consistent with the nondiscrimination requirements in title VI of the Civil Rights Act of 1964; and applying the preferences under section 6(c)(4). The contract shall require the manager to terminate tenancy in accordance with the procedures applicable to the section 8 new construction program. The contract shall permit, but not require, the manager to select applicants from the public housing waiting list maintained by the public housing agency.

"(4) EXTENSION, EXPIRATION, AND TERMINATION OF CONTRACTS.—(A) Periodically, as determined by the Secretary, the resident council shall—

"(i) approve the renewal of the contract between the Secretary and the manager, or

"(ii) disapprove renewal and submit an application to the Secretary, in accordance with subsection (f), proposing another manager, which may be the public housing agency.

"(B) If the Secretary determines the manager is in default of its responsibilities under the contract, the Secretary may require the resident council to submit another application proposing a different manager, which may be the public housing agency.

"(5) RESUMPTION OF MANAGEMENT RESPONSIBILITIES BY PUBLIC HOUSING AGENCY.—Where a public housing agency reassumes management responsibilities for the eligible housing, the housing shall be subject to all requirements that apply to public housing owned or operated by the agency.

"(i) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—The Secretary may establish cost limitations on activities under this subtitle. The amount of rehabilitation funds under subsection (e)(1) that may be approved may not exceed the per unit cost limit applicable to the comprehensive grant program under section 14.

"(2) DEMOLITION AND DISPOSITION NOT PERMITTED.—The manager may not demolish or dispose of eligible housing under this subtitle.

"(3) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS.—To be eligible to become a manager, a resident management corporation—

"(A) shall demonstrate to the Secretary its ability to manage public housing effectively and efficiently, as determined by the Secretary, which shall include evidence of its most recent financial audit; or

"(B) shall arrange for operation of the housing by a qualified management entity.

"(4) PHA NOT LIABLE FOR MANAGER OR RESIDENT COUNCIL.—The public housing agency shall not be liable for any act or failure to act by the manager or resident council.

"(5) BONDING AND INSURANCE.—Before assuming any management responsibility for eligible housing, the manager shall obtain fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements of the Secretary. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the manager or its employees.

"(6) RESTRICTION ON DISPLACEMENT BEFORE TRANSFER.—

"(A) IN GENERAL.—The public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing beginning on the date that an application under subsection (f) is submitted by a resident council, and continuing through either transfer of management of the housing or if the application is disapproved, the date of the disapproval.

"(B) EXCEPTION FOR TEMPORARY RELOCATION.—Paragraph (1) shall not apply to the temporary relocation of residents in connection with modernization activities under section 14.

"(j) PERFORMANCE REVIEW AND COMPLIANCE; RECORDS, REPORTS, AND AUDITS.—

"(1) MONITORING AND ENFORCEMENT BY THE SECRETARY.—The Secretary shall monitor the performance of managers under this subtitle. The Secretary is authorized to take any available action, including any action specified in the contracts referred to in paragraph (1), for violations of the requirements of this subtitle.

"(2) RECORDS, REPORTS, AND AUDITS OF MANAGERS.—

"(A) KEEPING OF RECORDS.—Each manager and resident council under this subtitle shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the manager of the proceeds of assistance received under this subtitle and to ensure compliance with the requirements of this subtitle.

"(B) ACCESS TO DOCUMENTS.—

"(i) BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the manager, the resident council, and the public housing agency that are pertinent to assistance received under, and the requirements of, this subtitle.

"(ii) BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the manager and the resident council that are pertinent to assistance received under, and the requirements of, this subtitle.

"(C) REPORTING REQUIREMENTS.—Each manager shall submit to the Secretary such reports as the Secretary determines appropriate to carry out the Secretary's responsibilities under this subtitle, including an annual financial audit.

"(D) ANNUAL REPORT.—The Secretary shall submit an annual report to the Congress evaluating the management transfer carried out under this section compared to other methods of dealing with severely distressed public housing.

"(k) NONDISCRIMINATION.—No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(l) RELATIONSHIP TO OTHER PROGRAM AUTHORITIES.—

"(1) HOMEOWNERSHIP.—After a transfer of management in accordance with this subtitle, the eligible housing shall remain eligible for assistance under the HOPE for Public and Indian Housing Homeownership program under title III and for sale under section 5(h) of this Act. Participation in a homeownership program shall be consistent with the contract between the Secretary and the manager.

"(2) SELF-SUFFICIENCY.—Where the application proposes a program to enable residents to achieve economic independence and self-sufficiency, consistent with the objectives of the program under section 23, and demonstrates that the manager has the capacity to carry out a self-sufficiency program, the Secretary may approve such a program. Where such a program is approved, the Secretary shall authorize the manager to adopt policies consistent with section 23(d) (maximum rents and escrow savings accounts) and section 23(e) (effect of increases in family income).

"(m) DEFINITIONS.—For purposes of this subtitle—

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that—

"(A) is owned or operated by a troubled public housing agency;

"(B) has a vacancy rate, as determined by the Secretary, of less than 50 percent, or such higher vacancy rate as the Secretary may establish or approve; and

"(C) has been identified as severely distressed under section 24 of this Act.

In the case of an individual building, the building shall, in the Secretary's determination, be sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

"(2) The term 'manager' means one of the following entities (other than the public housing agency that owns the project) that has entered into a contract with the Secretary for the management of eligible housing under this subtitle—

"(A) a public or private nonprofit organization (including, as determined by the Secretary, such an organization sponsored by the public housing agency);

"(B) a for-profit entity, if it has (i) a proven track record of providing low-income housing, and (ii) is participating in joint venture with an organization described in paragraph (3);

"(C) a public body, including an agency of instrumentality thereof; and

"(D) a public housing agency.

The term does not include a resident council.

"(3) The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term includes resident management corporations.

"(4) The term 'public housing agency' as used in this subtitle has the meaning given such term in section 3(b)(6) of this Act, except that it does not include Indian housing authorities.

"(5) The term 'public nonprofit organization' means any public nonprofit entity, except the public housing agency that owns the eligible housing.

"(6) The term 'resident council' means any nonprofit organization or association that—

"(A) is representative of the residents of the eligible housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the eligible housing.

"(7) The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(8) The term 'troubled public housing agency' means a public housing agency with 250 or more units that—

"(A) has been designated as a troubled public housing agency for the current Federal fiscal year, and for the 2 preceding Federal fiscal years—

"(i) under section 6(j)(2)(A)(i); or

"(ii) before the implementation of that authority, under any other procedure for designating troubled public housing agencies that was used by the Secretary and is determined by the Secretary to be appropriate for purposes of this section; and

"(B) has not met targets for improved performance under section 6(j)(2)(B).".

SEC. 505. DIRECTIVE TO RELIEVE REGULATORY BURDEN.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall—

(1) review existing regulations, administrative procedures and recordkeeping, and documentation requirements that govern the use and distribution of funds for the operation, modernization, and development of public and Indian housing under the United States Housing Act of 1937;

(2) review existing regulations, administrative procedures and recordkeeping, and documentation requirements that govern the assessment of the management performance of public and Indian housing agencies pursuant to section 6(j) of the United States Housing Act of 1937;

(3) determine whether the regulations, administrative procedures, and requirements reviewed under paragraphs (1) and (2) impose unnecessary burdens on public and Indian housing agencies; and

(4) identify and revise any such regulations, administrative procedures, and requirements to reduce unnecessary burdens on public and Indian housing agencies.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report describing the results of the review and the revisions made under subsection (a).

(c) CONSULTATION.—The Secretary shall carry out subsection (a) in consultation with organizations and individuals representing public and Indian housing agencies, tenants, management experts, academics, and other interested parties.

SEC. 506. CEILING RENTS.

Section 3(a)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)) is amended—

(1) by striking "(A)" after "(2)";

(2) in the first sentence of subparagraph (A), by striking "for not more than a 5-year period";

(3) by striking subparagraph (B); and

(4) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively.

SEC. 507. REPLACEMENT HOUSING.

(a) AMENDMENTS TO SECTION 18 OF THE UNITED STATES HOUSING ACT OF 1937.—Section 18(b) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)) is amended—

(1) in paragraph (1), by inserting after "cooperative" the following: "of the project covered by the application"; and

(2) in paragraph (3)—

(A) by inserting after "for each public housing dwelling unit to be demolished or disposed under such application" the following: "that exceeds in any 5-year period the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing under this Act";

(B) by striking "and" at the end of subparagraph (F);

(C) by striking the period at the end of subparagraph (G) and inserting "; and"; and

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

"(H) may provide that all or part of such additional dwelling units may be located outside the jurisdiction of the public housing agency (hereafter referred to in this section as the 'original agency') if—

"(i) the location is in the same housing market area as the original agency, as determined by the Secretary;

"(ii) the plan contains an agreement between the original agency and the public housing agency in the alternate location or other public or private entity that will be responsible for providing the additional units in the alternate location (hereafter referred to in this section as the 'alternate agency or entity') that the alternate agency or entity will, with respect to the dwelling units involved—

"(I) provide the dwelling units in accordance with subparagraph (A) of this paragraph;

"(II) complete the plan in accordance with subparagraph (D) of this paragraph;

"(III) work with the original agency in meeting the requirements of subparagraph (E) of this paragraph and the maximum rent provisions of subparagraph (F) of this paragraph; and

"(IV) not impose a local residency preference on any resident of the jurisdiction of the original agency for purposes of admission to any such units; and

"(iii) the arrangement is approved by the unit of general local government for the jurisdiction in which the additional units will be located.".

(b) APPLICABILITY.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by subsection (a) shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

SEC. 508. INCOME ELIGIBILITY.

Section 16(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437n(d)(2)) is amended by inserting before the period "or to dwelling units sold or intended to be sold under section 5(h) of this title".

SEC. 509. APPLICABILITY OF DEFINITIONS TO INDIAN HOUSING.

(a) IN GENERAL.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian Housing Authority.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect as if such provision were enacted upon the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 510. PREFERENCE RULES.

Not later than 30 days after the date of enactment of this Act, the Secretary shall publish final regulations as may be necessary to implement section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)).

SEC. 511. DEFINITION OF ADJUSTED INCOME FOR FAMILIES ASSISTED BY INDIAN HOUSING AUTHORITIES.

Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(1) by striking subparagraph (D) and inserting the following:

"(D) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education;";

(2) by striking "and" at the end of subparagraph (E);

(3) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(4) by inserting after subparagraph (F) the following new subparagraph:

"(G) excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities.".

SEC. 512. NONMETROPOLITAN ALLOCATION REQUIREMENT FOR THE PUBLIC AND INDIAN HOUSING AND SECTION 8 PROGRAMS.

The second sentence of section 213(d)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(2)) is amended by striking "20 nor more than 25" and inserting "15 nor more than 20".

SEC. 513. DRUG ELIMINATION GRANTS.

The Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123, by inserting immediately after "(including Indian Housing Authorities)" the following: ", public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies,";

(2) in section 5124, by inserting at the beginning of paragraph (7) "where a public housing agency receives a grant,"; and

(3) in section 5125(a), by inserting immediately after "public housing agency" in the first sentence the following: ", a public housing resident management corporation,".

SEC. 514. FUNDING OF PUBLIC HOUSING MODERNIZATION PROGRAM MONITORING AND MANAGEMENT ASSISTANCE.

Section 14(k)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(k)(1)) is amended by inserting "(A)" before "from", and inserting the following new subparagraph at the end:

"(B) From amounts approved in appropriation Acts under this section for fiscal year 1993 and each fiscal year thereafter, and to the extent provided by such Acts, the Secretary may set aside up to $10,500,000 for use by the Secretary to contract for monitoring and inspections of, and management and other technical assistance and services for, public housing agencies receiving financial assistance under this section.".

SEC. 515. USE OF COMPREHENSIVE GRANT FUNDS FOR ACQUISITION OF REPLACEMENT HOUSING UNITS.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l) is amended—

(1) at the end of subsection (a), by adding the following: "With respect to a public housing agency that owns or operates more than 250 public housing dwelling units, it is also the purpose of this section to provide assistance for the development of units through acquisition (with or without rehabilitation) to replace housing units or portions of such projects that have been declared nonviable.";

(2) at the end of subsection (b)(1), by adding the following: "With respect to a public housing agency that owns or operates more than 250 public housing dwelling units, the Secretary may make available and contract to make available such assistance to such public housing agencies for the development of units through acquisition (with or without rehabilitation) to replace housing units in public housing projects or portions of such projects that have been declared nonviable."; and

(3) at the end of subsection (e)(1)(B), by adding the following: "and a comprehensive assessment of the need to acquire housing units to replace housing units in public housing projects or portions of such projects that have been declared nonviable;".

SEC. 516. EXEMPTION FROM LIMITATION ON NEW CONSTRUCTION.

Section 201(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(c)) is amended by striking the period at the end and inserting the following: "or section 6(h) of the United States Housing Act 1937 (relating to the prohibition against the Secretary entering into a contract involving new construction unless the public housing agency demonstrates that the cost of new construction is less than the cost of acquisition or acquisition and rehabilitation)".

SEC. 517. PAYMENTS TO MUNICIPALITIES.

Section 203(b) of the United States Housing Act of 1937 (42 U.S.C. 1437cc(b)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act, the Secretary shall make annual payments from funds appropriated under section 9(c) to municipalities providing such roads, facilities, and systems in an amount equal to—

"(1) 10 percent of the applicable shelter rent, minus the utility allowance; or

"(2) $150,

whichever is greater, for each rental housing unit covered by this subsection.".

SEC. 518. RENTAL ASSISTANCE FRAUD RECOVERIES.

(a) IN GENERAL.—Section 326(d) of the Housing and Community Development Amendments of 1981 (42 U.S.C. 1437f note) is amended to read as follows:

"(d)(1) The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 and owners of projects assisted under that section to retain, out of amounts obtained by them from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

"(A) 50 percent of the amount actually collected, or

"(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

Amounts retained by an agency or owner shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

"(2) Amounts may be recovered under this paragraph—

"(A) by an agency or owner through a lawsuit (including settlement of the lawsuit) brought by the agency or owner or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's or owner's investigation where the agency or owner seeks prosecution of a family or where an agency seeks prosecution of an owner; or

"(B) in the case of a public housing agency, through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937."

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to actions by public housing agencies and owners initiated on or after the date of enactment of this Act.

SEC. 519. SALE OF CERTAIN SCATTERED-SITE HOUSING.

The Secretary of Housing and Urban Development shall authorize the Delaware State Housing Authority in the State of Delaware to sell scattered-site public housing of the Authority under the provisions of section 5(h) of the United States Housing Act of 1937. Any proceeds from the disposition of such housing shall be used to purchase replacement scattered-site dwellings, which shall be considered public housing for the purposes of such Act and for which the Secretary shall provide annual contributions for operation, using amounts made available under section 9(c) of such Act.

SEC. 519A. MODERNIZATION OF INDIAN HOUSING.

Section 202(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)(2)) is amended by striking "single" in the second sentence.

SEC. 519B. PROJECT-BASED ACCOUNTING.

Section 502(c)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437d note) is amended by adding before the period the following: "for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units.

SEC. 519C. HOMEOWNERSHIP DEMONSTRATION PROGRAM IN OMAHA, NEBRASKA.

(a) ESTABLISHMENT.—The Secretary shall carry out a program to facilitate self-sufficiency and homeownership of single-family homes administered by the Housing Authority of the city of Omaha, in the State of Nebraska (hereafter in this section referred to as the "Housing Authority"), to demonstrate the effectiveness of promoting homeownership and providing support services.

(b) PARTICIPATING PUBLIC HOUSING UNITS.—For purposes of the demonstration program established pursuant to subsection (a), the Secretary shall allow the Housing Authority to designate single-family housing units for eventual homeownership. Over the term of the demonstration, this section may be applied to not more than 50 percent of the single-family housing units located on scattered sites that are owned or purchased by the Housing Authority.

(c) NONDISPLACEMENT.—No person who is a tenant of public housing may be involuntarily relocated or displaced as a result of the demonstration program.

(d) ECONOMIC SELF-SUFFICIENCY.—

(1) ESTABLISHMENT OF PARTICIPATION CRITERIA.—The Housing Authority shall establish criteria for the participation of families in the demonstration program. Such criteria shall be based on factors that may reasonably be expected to predict a family's ability to succeed in the homeownership program established by this section.

(2) CONTENTS OF PARTICIPATION CRITERIA.—The criteria referred to in paragraph (1) shall include evidence of interest by the family in homeownership, the employment status and history of employment of family members, and maintenance by the family of the family's previous dwelling.

(e) PROVISION OF SUPPORTIVE SERVICES.—The Housing Authority shall ensure the availability of supportive services to each family participating in the demonstration program through its own resources and through coordination with Federal, State, and local agencies and private entities. Supportive services available under the demonstration program may include counseling, remedial education, education for completion of high school, job training and preparation, financial counseling emphasizing planning for homeownership, and any other appropriate services.

(f) REPORTS TO CONGRESS.—

(1) BIENNIAL REPORT.—Upon the expiration of the 2-year period beginning on the date of enactment of this Act, and each 2-year period thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the effectiveness of the demonstration program established under this section.

(2) FINAL REPORT.—Not later than 60 days after termination of the demonstration program pursuant to subsection (h), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program.

(g) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations necessary to carry out this section.

(h) TERMINATION.—The demonstration program established under this section shall terminate 10 years after the date of enactment of this Act.

SEC. 519D. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a) is amended—

(1) in subsection (a), by striking "in" and inserting "for residents of";

(2) in subsection (b)(5), after "nonprofit organizations", by inserting "and institutions of higher learning"; and

(3) in subsection (d)(3), after "cultural activities,", by inserting "transportation costs,".

Subtitle B—Low-Income Rental Assistance

SEC. 521. VOUCHER AND CERTIFICATE HOMEOWNERSHIP.

(a) USE OF VOUCHERS FOR COOPERATIVE AND MUTUAL HOUSING HOMEOWNERSHIP.—Section 8(o)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(7)) is amended—

(1) by inserting "(A)" after "mutual housing"; and

(2) by inserting before the period "; or (B) for families which are first-time homebuyers".

(b) HOMEOWNERSHIP OPTION: VOUCHERS AND CERTIFICATES.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(y) HOMEOWNERSHIP OPTION: VOUCHERS AND CERTIFICATES.—

"(1) USE OF VOUCHERS AND CERTIFICATES FOR HOMEOWNERSHIP.—A family assisted under the voucher or certificate program may receive assistance for occupancy of a dwelling owned by 1 or more members of the family if the family—

"(A) is a first-time homeowner;

"(B) either—

"(i) participates in the public housing agency's Family Self-Sufficiency program under section 23; or

"(ii) demonstrates that it has income from employment or other sources (other than public assistance), as determined in accordance with the regulations of the Secretary, that is at least equal to twice the payment standard established by the public housing agency (or to such other amount as may be established by the Secretary);

"(C) at the time it initially receives assistance under this subsection, demonstrates that 1 or more adult members of the family, except as determined by the Secretary, has achieved employment for such period as the Secretary shall require;

"(D) participates in a homeownership and fair housing counseling program provided by the agency; and

"(E) meets any other initial or continuing requirements established by the public housing agency in accordance with the regulations of the Secretary.

"(2) ASSISTANCE.—The monthly assistance payment for any family assisted under this subsection shall be the lesser of—

"(A) the amount by which the payment standard established by the public housing agency pursuant to subsection (o) exceeds 30 percent of the family's monthly adjusted income; or

"(B) the amount by which the monthly homeownership expenses, as determined in accordance with the regulations of the Secretary, exceed 10 percent of the family's monthly income.

"(3) RECAPTURE OF CERTAIN AMOUNTS.—In determining the amount of assistance for a family under paragraph (2), the Secretary shall not include in the family's income an amount imputed from its equity in a dwelling occupied by the family with assistance under this subsection. However, upon sale of the dwelling by the family, the Secretary shall recapture from net proceeds, if any, the amount of additional assistance, as determined in accordance with the regulations of the Secretary, paid to or on behalf of the eligible family due to the preceding sentence.

"(4) DOWNPAYMENT REQUIREMENT.—The public housing agency shall assure that each family shall provide from its own resources at least 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Up to 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government. The family may count amounts from its escrow under section 23(d) that are used for the downpayment toward the 80 percent requirement.

"(5) INELIGIBILITY UNDER OTHER PROGRAMS.—A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and section 502 of the Housing Act of 1949.

"(6) INAPPLICABILITY OF CERTAIN PROVISIONS.—The following provisions shall not apply to assistance under this subsection:

"(A) subsection (c)(3)(B);

"(B) subsection (d)(1)(B);

"(C) provisions (except paragraph (2) of this subsection) governing the determination of the amount of assistance payments on behalf of a family;

"(D) provisions governing the maximum amounts payable to owners and amounts payable by assisted families;

"(E) provisions concerning contracts between public housing agencies and owners; and

"(F) any other provisions of this Act that are inconsistent with the provisions of this subsection.

"(7) REVERSION TO RENTAL STATUS.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive assistance under the voucher or certificate program unless the family—

"(A) transfers marketable title to the dwelling to the Secretary;

"(B) moves from the dwelling within deadlines established or approved by the Secretary;

"(C) agrees that any amounts the family is required to pay to reimburse the escrow account as required by section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family; and

"(D) meets any other requirements established or approved by the Secretary.

If a family defaults under a mortgage not covered by the preceding sentence, the family may not continue to receive assistance unless it complies with requirements established by the Secretary. A family that defaults under a mortgage may not receive assistance for occupancy of another dwelling owned by 1 or more members of the family.

"(8) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term 'first-time homeowner' means—

"(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

"(B) any other family, as the Secretary may prescribe by regulation.".

(c) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of such Act is amended by inserting after "8(o)" the following: "or 8(y)".

(d) CONFORMING FAMILY SELF-SUFFICIENCY AMENDMENTS.—Section 23 of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended—

(1) in the last sentence of subsection (d)(2), by striking "Amounts" and inserting "Except as provided in paragraph (3), amounts"; and

(2) by adding at the end of subsection (d) the following new paragraph:

"(3) USE OF ESCROW SAVINGS ACCOUNTS FOR HOMEOWNERSHIP UNDER SECTION 8(y).—A family that uses assistance under section 8(y) to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (2) for a downpayment for such purchase. After the family acquires homeownership, it may use the remainder of the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults on its loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary, and the family may be required to reimburse the escrow account for some or all of the amounts used in connection with homeownership.".

(e) USE OF FHA INSURANCE WITH SECTION 8 HOMEOWNERSHIP OPTION.—

(1) AMENDMENT TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(A) by adding at the end of section 203 the following new subsection—

"(u) Notwithstanding section 202, the insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 shall be an obligation of the General Insurance Fund created pursuant to section 519. The provisions of section 204 (a) through (h) and section 204 (j) and (k) shall apply, except that—

"(1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and

"(2) the excess remaining, referred to in section 204(f)(1), shall be retained by the Secretary and credited to the General Insurance Fund.";

(B) in the first sentence of section 203(c)(2), by striking "an obligation of the Mutual Mortgage Insurance Fund" and inserting "either an obligation of the Mutual Mortgage Insurance Fund or an obligation of the General Insurance Fund under subsection (u)"; and

(C) in section 519(e), by inserting after "203(b)" the following: "(except as provided in section 203(u))".

(2) OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—The first sentence of section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "obligations of the Mutual Mortgage Insurance Fund" and inserting "either obligations of the Mutual Mortgage Insurance Fund or obligations of the General Insurance Fund under section 203(u) of the National Housing Act".

(f) APPLICABILITY TO INDIAN HOUSING.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

SEC. 522. MOVING TO OPPORTUNITY FOR FAIR HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a demonstration program to help minority families with children move out of areas with high concentrations of minority persons living in poverty to areas with low concentrations. The demonstration program carried out under this section shall demonstrate the extent to which mobility initiatives—

(1) further the objectives of title VIII of the Civil Rights Act of 1968;

(2) enhance the short- and long-term employment opportunities of adult participants; and

(3) enhance the short- and long-term educational and employment opportunities of child participants.

The demonstration program carried out under this section shall also compare and contrast the costs associated with implementing such a program (including the costs of counseling, supportive services, housing assistance payments and other relevant program elements) with the costs associated with the routine implementation of the section 8, tenant-based rental assistance programs.

(b) RESERVATION OF SECTION 8 CERTIFICATES.—From amounts approved in appropriations Acts for fiscal years 1993 and 1994 for use under the section 8 existing housing certificate program, the Secretary may reserve amounts for up to 1,500 certificates for each such fiscal year for purposes of carrying out the demonstration program under this section.

(c) QUALIFIED JURISDICTIONS.—The demonstration program carried out under this section shall involve cities with populations exceeding 350,000 that are located in consolidated metropolitan statistical areas, as established by the Office of Management and Budget, with populations exceeding 1,500,000.

(d) CONTRACTING.—The Secretary shall enter into contracts with nonprofit organizations for counseling and other services in connection with the demonstration program under this section and shall enter into annual contributions contracts with public housing agencies for the administration of housing assistance payment contracts.

(e) REPORTING REQUIREMENTS.—Not later than 2 years after the date of enactment of this Act (and biennially thereafter), the Secretary shall submit interim reports to the Congress evaluating the effectiveness of the demonstration program under this section. The interim reports shall include a statement of the number of persons served, the level of counseling and the types of services provided, the cost of providing such counseling and services, updates on the employment record of families assisted under the program, and any other information the Secretary considers appropriate in evaluating the demonstration. Not later than September 30, 2004, the Secretary shall submit a final report to the Congress describing the long-term housing, employment, and educational achievements of the families assisted under the demonstration program.

(f) DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER THE SECTION 8 CERTIFICATE AND VOUCHER PROGRAMS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with individuals representing fair housing organizations, low-income tenants, public housing agencies, and other interested parties, shall—

(1) review and comment upon the study prepared by the Comptroller General of the United States pursuant to section 558(3) of the Cranston-Gonzalez National Affordable Housing Act;

(2) review and comment on existing demonstration and judicially mandated programs that help minority families receiving section 8 certificates and vouchers move out of areas with high concentrations of minority persons living in poverty to areas with low concentrations, including how such programs differ from the routine implementation of the section 8 certificate and voucher programs;

(3) independently assess factors (including the adequacy of section 8 fair market rents, the level of counseling provided by public housing agencies, the existence of racial and ethnic discrimination by landlords) that may impede the geographic dispersion of families receiving section 8 certificates and vouchers;

(4) identify and implement any administrative revisions that would enhance geographic dispersion and tenant choice and incorporate the positive elements of various demonstration and judicially mandated mobility programs; and

(5) submit to the Congress a report describing its findings under paragraphs (1), (2), and (3), the actions taken under paragraph (4), and any recommendations for additional legislative action.

SEC. 523. FAMILY UNIFICATION ASSISTANCE.

Section 8(x)(1) of the United States Housing Act of 1937 (12 U.S.C. 1437f(x)(1)) is amended to read as follows:

"(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $103,200,000 on or after October 1, 1993.".

SEC. 524. 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. 525. APPLICABILITY OF AMENDMENT TO MCKINNEY ACT.

Section 2(b) of Public Law 102-273 (42 U.S.C. 1437f note) is amended by striking "January 1, 1992" and inserting "November 7, 1988".

SEC. 526. FAMILY SELF-SUFFICIENCY.

(a) VOLUNTARY PARTICIPATION BY FAMILIES.—Section 23(c)(1) of the United States Housing Act of 1937 is amended by inserting at the end thereof the following: "Assistance for a family that elects not to participate in the program shall not be delayed by reason of such election.".

(b) CONTRACT OF PARTICIPATION.—Section 23(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(1)) is amended—

(1) in the last sentence, by inserting "without good cause" after "comply"; and

(2) by adding at the end the following: "Good cause may include but shall not be limited to a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation.".

(c) ESCROW SAVINGS ACCOUNTS.—Section 23(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)(2)) is amended in the last sentence by striking "only after" and all that follows through the end of the sentence and inserting the following: "after the family ceases to receive Federal, State and local income subsidies or family income exceeds the equivalent of full-time employment at the minimum wage, or under circumstances in which the Secretary determines an exception for good cause is warranted.".

(d) NONDISCRIMINATION.—Section 23(g)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437u(g)(3)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(3) by adding at the end the following:

"(H) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.".

(e) RESERVATION OF OPERATING SUBSIDIES.—The last sentence of 23(h)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(h)(2)) is amended to read as follows: "Of any amounts appropriated under section 9(c) for fiscal years 1993 and 1994, $25,000,000 is authorized in each fiscal year to be used for costs under this paragraph.".

(f) DEFINITIONS.—Section 23(n) of the United States Housing Act of 1937 (42 U.S.C. 1437u(n)) is amended by adding at the end the following:

"(3) The term 'eligible family' means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the Family Self-Sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program.".

(g) INDIAN HOUSING.—Section 23(o)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(o)(2)) is amended to read as follows:

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING AUTHORITIES.—Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities.".

SEC. 527. SECTION 8 AMENDMENTS.

(a) ADDITIONAL ADJUSTMENTS.—Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding after the first sentence the following new sentence: "The Secretary may make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.".

(b) COMMITTEE FOR DIGNITY AND FAIRNESS FOR THE HOMELESS HOUSING DEVELOPMENT, INC.—Rehabilitation activities undertaken by the Committee for Dignity and Fairness for the Homeless Housing Development, Inc. in connection with 46 dwelling units that were renovated for permanent housing for the homeless and that are located in Philadelphia, Pennsylvania, shall be deemed to have been conducted pursuant to an agreement with the Secretary of Housing and Urban Development under clause (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)).

SEC. 528. EXCLUSION OF INCOME.

(a) EXCLUSION OF CERTAIN INCOME.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended after "family" by inserting the following: "and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7))".

(b) BUDGET COMPLIANCE.—The amendment made by subsection (a) shall apply only to the extent approved in appropriations Acts.

SEC. 529. TECHNICAL AMENDMENT.

(a) ELIGIBILITY OF LOW-INCOME FAMILIES TO RECEIVE RENTAL VOUCHERS.—Section 8(o)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(A)) is amended—

(1) by striking "or" at the end of clause (iii); and

(2) by inserting before the period the following: ", or (v) a family that qualifies to receive a voucher under section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990".

Subtitle C—General Provisions and Other Assistance Programs

SEC. 531. LOW-INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $15,242,348,288 on October 1, 1992, and by $15,435,634,441 on October 1, 1993.".

(b) UTILIZATION OF HOUSING BUDGET AUTHORITY.—Subparagraphs (A) and (B) of section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) are amended to read as follows:

"(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $541,851,600, of which amount not more than $245,409,600 shall be available for Indian housing;

"(ii) for public housing grants under section 24, not more than $400,000,000;

"(iii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,658,888,400, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iv) for comprehensive improvement assistance grants under section 14(k), not more than $3,000,000,000, of which not more than $3,000,000 shall be available for resident homeownership financial assistance under section 21(a)(2)(B);

"(v) for assistance under section 8 for property disposition, not more than $91,728,288;

"(vi) for assistance under section 8 for loan management, not more than $265,224,000;

"(vii) for extensions of contracts expiring under section 8, not more than $7,261,600,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(viii) for amendments to contracts under section 8, not more than $1,918,801,000;

"(ix) for public housing lease adjustments and amendments, not more than $21,755,000; and

"(x) for public housing replacement activities, not more than $82,500,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $559,190,851, of which amount not more than $253,262,707 shall be available for Indian housing;

"(ii) for public housing grants under section 24, not more than $412,800,000;

"(iii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,711,972,829, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iv) for comprehensive improvement assistance grants under section 14(k), not more than $3,096,000,000;

"(v) for assistance under section 8 for property disposition, not more than $94,663,593;

"(vi) for assistance under section 8 for loan management, not more than $273,711,168;

"(vii) for extensions of contracts expiring under section 8, not more than $7,261,600,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(viii) for amendments to contracts under section 8, not more than $1,918,801,000;

"(ix) for public housing lease adjustments and amendments, not more than $21,755,000; and

"(x) for public housing replacement activities, not more than $85,140,000.".

SEC. 532. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows through the period and inserting "except that for such purposes there are authorized to be appropriated $5,200,000 for fiscal year 1993 and $5,318,400 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to $1,500,000 shall be available for use for counseling and other activities in connection with the demonstration program authorized under section 512 of the National Affordable Housing Act Amendments of 1992.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1993 and $7,224,000 for fiscal year 1994, of which

amounts $2,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D).".

(c) PREPURCHASE AND FORECLOSURE PREVENTION COUNSELING DEMONSTRATION.—Section 106(d)(12) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)(12)) is amended to read as follows:

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $365,000 for fiscal year 1993 and $365,000 for fiscal year 1994.".

SEC. 533. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

(a) AUTHORIZATION.—Section 5130(a) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter $172,240,800 for fiscal year 1993 and $177,752,506 for fiscal year 1994. Any amount appropriated under this section shall remain available until expended.".

(b) PUBLICATION OF REGULATIONS.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish such final regulations as may be necessary to implement section 5130(b) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909(a)).

(c) DRUG-RELATED ACTIVITY IN OTHER PHA-OWNED HOUSING.—Section 5124 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903) is amended—

(1) by inserting "(a) PUBLIC AND ASSISTED HOUSING.—" before "GRANTS"; and

(2) by adding at the end the following new subsection:

"(b) OTHER PHA-OWNED HOUSING.—Notwithstanding any other provision of this chapter, grants under this chapter may be used to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

"(1) the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of this Act; and

"(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related activity at the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing.".

SEC. 534. SENSE OF THE SENATE.

(a) FINDINGS.—The Congress finds that—

(1) there are not sufficient housing resources to meet the Nation's housing needs;

(2) such a limitation on resources has meant that many low-income people are homeless or ill-housed or have an adequate range of housing options;

(3) affordable and accessible housing options are extremely limited, particularly for people with disabilities; and

(4) the resultant increase in the mixing of elderly and nonelderly persons in certain public and assisted housing has in some cases created problems and less than ideal housing for both groups.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) public and assisted housing owners and managers should be able to designate buildings or portions of buildings as age-distinct, and restrict new entry in such buildings to persons over the age of 62;

(2) to the extent that such designations will result in the loss of access to certain housing now available to some nonelderly persons, adequate alternative housing resources should be made available to nonelderly persons affected by this decision;

(3) these alternative resources should include a range of housing options for those affected by the designation of age-distinct housing, especially for persons with disabilities;

(4) Federal housing policy should target resources and provide management tools to enable housing providers to operate mixed housing successfully; and

(5) the Senate conferees on this Act should craft a provision that embodies these principles.

TITLE VI—PRESERVATION

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

SEC. 601. AUTHORIZATION.

Section 234 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4124) is amended to read as follows:

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle $638,252,784 for fiscal year 1993 and $658,676,873 for fiscal year 1994.

"(b) GRANTS.—Of the amounts made available under subsection (a), not more than $50,000,000 for each of fiscal years 1993 and 1994 shall be available for grants under section 221(d)(2), subject to approval in appropriations Acts.".

SEC. 602. PREPAYMENT AMENDMENTS.

(a) APPRAISAL GUIDELINES.—The first sentence of section 213(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4103(c)) is amended by inserting before "and costs" the following: "simultaneous termination of any Federal rental assistance,".

(b) NOTICE OF INTENT; PLAN OF ACTION.—

(1) NOTICE OF INTENT.—Section 216(d) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4106(d)) is amended by adding at the end the following new paragraphs:

"(3) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—Upon filing a second notice of intent under this subsection, the owner shall simultaneously file such notice of the intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee and shall inform the tenants of the housing of the filing.".

(2) PLAN OF ACTION.—

(A) SUPPORTING DOCUMENTATION.—Section 217(a)(2) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4107(a)(2)) is amended by inserting after the second sentence the following new sentence: "Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action.".

(B) SUPPORTING DOCUMENTATION REGARDING REVISIONS.—Section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4107(c)) is amended in the second sentence by inserting before the period the following: "and make available all documentation supporting any revision".

(3) EFFECT OF ELECTION.—Section 604(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following sentence: "An owner that elects to be subject to the provisions of the Emergency Low-Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.".

(c) PRIORITY PURCHASERS.—

(1) ELIGIBILITY FOR ASSISTANCE.—Section 220(d)(2) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)) is amended by inserting after "purchasers" the following: "(including all priority purchasers other than resident councils acquiring under the homeownership program authorized by section 226)".

(2) RETURN.—Section 220(d)(2)(E) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(E)) is amended to read as follows:

"(E) receive a distribution equal to an 8 percent annual return on any actual cash investment (from sources other than assistance provided under this title) made to acquire or rehabilitate the project;".

(3) REIMBURSEMENT.—Section 220(d)(2)(F) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4110(d)(2)(F)) is amended to read as follows:

"(F) in the case of a priority purchaser, receive a reimbursement of all reasonable transaction expenses associated with the acquisition, loan closing and implementation of an approved Plan of Action; and".

(4) PROJECT OVERSIGHT.—

(A) AMOUNT OF ASSISTANCE.—Section 220(d)(2)(D) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 is amended by adding before the semicolon the following: "and in the case of a priority purchaser, meet project oversight costs".

(B) RENT ADJUSTMENTS.—Section 222(a)(2)(G)(i) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 is amended by striking "by making changes in the annual authorized return under section 214" and inserting the following: ", where the owner is a priority purchaser, to the portion of rent attributable to project oversight costs".

(C) APPLICABILITY.—The amendments made by this paragraph apply to a nonprofit organization purchasing an eligible low-income housing project pursuant to the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note).

(d) PREEMPTION.—The first sentence of section 232(b) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4122(b)) is amended by striking "and" the first place it appears and inserting "such as any law or regulation".

(e) TECHNICAL ASSISTANCE AND CAPACITY BUILDING.—Title II of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (42 U.S.C. 4101 et seq.) is amended—

(1) by redesignating section 235 as section 236; and

(2) by inserting after section 234 the following new section:

"SEC. 235. TECHNICAL ASSISTANCE AND CAPACITY BUILDING.

"(a) IN GENERAL.—The Secretary may provide technical assistance and capacity building to further the preservation program established under this title.

"(b) PURPOSES.—The purposes of this section are—

"(1) to promote the ability of residents of eligible low income housing to meaningfully participate in the preservation process established by this title and affect decisions about the future of their housing;

"(2) to promote the ability of community-based nonprofit housing developers and resident organizations to acquire, rehabilitate, and competently own and manage eligible housing as rental or cooperative housing for low- and moderate-income people; and

"(3) to assist the Secretary in discharging the obligation under section 220 to notify potential qualified purchasers of the availability of properties for sale and to otherwise facilitate the co-

ordination and oversight of the preservation program established under this title.

"(c) AUTHORIZATION.—Of amounts made available under section 234(a)(1), the Secretary shall use to carry out this section not more than $25,000,000 for each of the fiscal years 1993 and 1994, of which 90 percent shall be set aside for use in accordance with subsection (d) and 10 percent shall be set aside for use in accordance with subsection (e).

"(d) GRANTS FOR BUILDING RESIDENT CAPACITY AND FUNDING PREDEVELOPMENT COSTS.—

"(1) IN GENERAL.—Assistance made available under this subsection shall be used for direct assistance grants to resident organizations and community-based nonprofit housing development organizations and resident councils to assist the acquisition of specific projects (including the payment of reasonable administrative expenses to participating intermediaries).

"(2) SET-ASIDE.—30 percent of the assistance made available under this subsection shall be used for resident capacity grants in accordance with paragraph (4). The remainder shall be used for predevelopment grants in connection with specific projects in accordance with paragraph (6).

"(3) LIMITATION.—Resident capacity grants may not exceed $30,000 per project and grants for predevelopment costs may not exceed $200,000 per project, exclusive of any fees paid to a participating intermediary by the Secretary for administering the program.

"(4) ELIGIBLE ACTIVITIES.—Resident capacity grants shall be available to eligible applicants to cover expenses for resident outreach, incorporation of a resident organization, conducting democratic elections, training, leadership development, legal and other technical assistance to the board of directors, staff and members of the resident organization.

"(5) LOW-INCOME HOUSING.—Grants shall be provided with respect to eligible low-income housing for which an owner has filed a notice of intent under this title or, pursuant to section 604 of the Cranston-Gonzalez National Affordable Housing Act, title II of the Emergency Low Income Housing Preservation Act of 1987. Eligible applicants shall be resident groups or organizations designated by the residents through a democratic and representative process, as defined by the Secretary.

"(6) PREDEVELOPMENT GRANTS.—

"(A) IN GENERAL.—Predevelopment grants shall be made available to community-based nonprofit housing development organizations and resident councils to cover the cost of organizing a purchasing entity and pursuing an acquisition, including third party costs for training, development consulting, legal, appraisal, accounting, environmental, architectural and engineering, application fees and sponsor's staff and overhead costs.

"(B) LOW-INCOME HOUSING.—Such grants may be made available with respect to any eligible low-income housing project if the owner has filed an initial notice of intent to transfer the housing to a qualified purchaser in accordance with section 220 of this title, or a notice of intent, and entered into a binding agreement to sell the housing to a resident or community-based nonprofit organization under title II of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 4101 note et seq.).

"(C) PHASE-IN OF GRANT PAYMENTS.—Grant payments shall be made in phases, based on performance benchmarks established by the Secretary in consultation with approved intermediaries.

"(7) GRANT APPLICATIONS.—Grant applications for assistance under paragraphs (4) and (6) shall be received monthly on a rolling basis and approved or rejected by approved intermediaries of the Secretary on at least a quarterly basis.

"(8) APPEAL.—If an application for assistance under paragraphs (4) and (6) is denied, the applicant shall have the right to appeal the denial to the Secretary and receive a binding determination within 30 days of the appeal.

"(e) GRANTS FOR OTHER PURPOSES.—Grant assistance under this subsection may be provided to—

"(1) resident-controlled or community-based nonprofit organizations with experience in resident education and organizing for the purpose of conducting community, city or county wide outreach and training programs to identify and organize residents of eligible low-income housing; and

"(2) State and local government agencies and nonprofit intermediaries for the purpose of carrying out such activities as the Secretary deems to further the preservation program established under this title.

"(f) METHOD FOR DELIVERY OF DIRECT ASSISTANCE.—The Secretary shall approve and disburse assistance under subsection (d) through eligible intermediaries. Intermediaries shall be selected by the Secretary through a competitive process, which shall include provision for a reasonable administrative fee. If the Secretary does not receive an acceptable proposal from an intermediary offering to administer assistance under subsection (d) in a given State, the Secretary shall administer the program directly.

"(g) DEFINITION OF ELIGIBLE INTERMEDIARIES.—The term 'eligible intermediary' means a State, regional, or national organization (including a quasi-public organization) or a State or local housing agency that—

"(1) has as a central purpose the preservation of existing affordable housing and the prevention of displacement;

"(2) does not receive direct Federal appropriations for operating support;

"(3) in the case of a national nonprofit organization, has been in existence for at least 5 years prior to the date of application and has received a ruling under section 501(c)(3) of the Internal Revenue Code of 1986;

"(4) in the case of a regional or State nonprofit organization, has been in existence for at least 3 years prior to the date of application and has received a ruling under section 501(c)(3) of the Internal Revenue Code of 1986 or is otherwise a tax-exempt entity;

"(5) has a record of service to low-income individuals or community-based nonprofit housing development organizations in multiple communities and, with respect to assistance under subsection (d), has experience with the allocation or administration of grant or loan funds; and

"(6) meets standards of fiscal responsibility established by the Secretary.

"(h) SELECTION OF ELIGIBLE INTERMEDIARIES.—

"(1) IN GENERAL.—The Secretary shall develop criteria to select intermediaries through a competitive process.

"(2) PRIORITY.—With respect to all forms of grants available under this subtitle, the Secretary's criteria shall afford a priority to applications from intermediaries with demonstrated expertise or experience with the program established under this title or under the Emergency Low Income Housing Preservation Act of 1987.

"(3) CRITERIA.—The criteria developed under this subsection shall—

"(A) not assign any preference or priority to applications from intermediaries based on their previous participation in administering or receiving Federal grants or loans (but may exclude applicants who have failed to perform under prior contracts of a similar nature);

"(B) require intermediary applicants to prepare proposals that demonstrate adequate staffing, qualifications, prior experience and a plan for participation; and

"(C) permit an intermediary applicant to serve as the administrator of assistance made available under subsection (d)(4) or (d)(6), based on the applicant's suitability and interest.

"(4) PROGRAM LIMITATIONS.—

"(A) GEOGRAPHIC COVERAGE.—The Secretary may select more than 1 State or regional intermediary for a single State or region. The number of intermediaries chosen for each State or region may be based on the number of eligible low-income housing projects in the jurisdiction, provided there is no duplication of geographic coverage by intermediaries in the administration of the direct assistance grant program.

"(B) NATIONAL NONPROFIT INTERMEDIARIES.—National nonprofit intermediaries shall be selected to administer the assistance made available under subsection (d) only with respect to those States or regions where no other eligible intermediary, acceptable to the Secretary, has submitted a proposal to participate.

"(C) PREFERENCE.—With respect to assistance made available under subsection (e), preference shall be given to eligible regional, State and local intermediaries, over national nonprofit organizations.

"(i) CONFLICT OF INTEREST PROVISION.—Intermediaries approved for the disbursement of assistance under subsection (d) shall certify that they will serve only as delegated program administrators, charged with the responsibility for reviewing and approving grant applications on behalf of the Secretary. Intermediaries shall—

"(1) establish appropriate procedures for grant administration and fiscal management, pursuant to standards established by the Secretary; and

"(2) receive a reasonable administrative fee, except that they shall be barred from providing other services to grant recipients with respect to properties that are the subject of the grant application and from receiving payment, directly or indirectly, from the proceeds of grants they have approved.

"(j) DEFINITION.—The term 'community-based nonprofit housing developer' means a nonprofit community development corporation that—

"(1) has received a ruling under section 501(c)(3) of the Internal Revenue Code of 1986;

"(2) has been in existence for at least 2 years prior to the date of the grant application;

"(3) has a record of service to low- and moderate-income people in the community in which the project is located;

"(4) is organized at the neighborhood, city, county or multi-county level; and

"(5) agrees to form a purchaser entity that conforms to the title VI regulatory definition of a community-based nonprofit organization and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested.".

(f) ELIGIBLE LOW-INCOME HOUSING.—

(1) DEFINITION.—Section 229(1)(A)(i) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119(1)(A)(i)) is amended by striking "assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937" and inserting "receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965".

(2) FORMER SECTION 233.—Section 233(1)(A)(i) of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) is amended by striking "assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937" and inserting "receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965".

(g) WINDFALL PROFITS TEST.—Section 222(e) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4112(e)) is amended by adding at the end the following: "If the Secretary initially determines that incentive payments under sections 219 or 220 should be denied under this subsection, the Secretary shall notify the tenants and provide a 60-day comment period prior to making a final determination.".

SEC. 603. ELIGIBILITY OF PUBLIC MORTGAGORS FOR SECTION 236 MORTGAGE INSURANCE.

Section 236(j)(4)(A) of the National Housing Act (12 U.S.C. 1715z-1(j)(4)(A)) is amended by striking "private".

Subtitle B—Other Preservation Provisions

SEC. 611. RESTORE FOR TROUBLED MULTIFAMILY HOUSING.

(a) NEW HEADING.—Section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a) is amended by striking:

"ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS"

and inserting:

"RESTORE FOR TROUBLED MULTIFAMILY HOUSING".

(b) MANDATORY ELEMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(d)) is amended—

(1) in paragraph (5), by striking "and";

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) all reasonable attempts have been made to take all appropriate actions within the power of the owner or manager of the project and provide suitable housing for project residents;

"(8) the project has a feasible plan to involve the residents in project decisions;

"(9) the affirmative fair housing marketing plan meets applicable requirements; and

"(10) the owner certifies that it will comply with various equal opportunity statutes."

(c) SELECTION CRITERIA.—

(1) REPEAL OF SECTION 201(k)(4).—Section 201(k)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(k)(4)) is repealed.

(2) NEW CRITERIA.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsection:

"(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:

"(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.

"(B) The extent to which the project is financially troubled.

"(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment submitted in accordance with section 611(i) of the National Affordable Housing Act Amendments of 1992.

"(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).

"(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).

"(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.

"(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.".

(d) LOW-INCOME AFFORDABILITY RESTRICTIONS.—Section 201(l)(2)(D) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(l)(2)(D)) is amended by adding at the end the following: "The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term 'remaining useful life' means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.".

(e) EXCLUSIVITY OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(o) Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low-Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.".

(f) OWNER CONTRIBUTIONS.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) in subparagraph (B), by striking "and";

(2) in subparagraph (C), by striking the period and inserting "; and"; and

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

"(D) the Secretary shall give owners credit for advances made to the project during a 3-year period prior to the application for assistance.".

(g) COORDINATION OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section 8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.".

(h) AUTHORIZATION.—Section 201(j) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)) is amended to read as follows:

"(5) There are authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $52,200,000 for fiscal year 1993 and $53,870,400 for fiscal year 1994.".

(i) MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES.—

(1) REQUIRED SUBMISSION.—

(A) IN GENERAL.—The owner of each covered multifamily housing property shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this subtitle.

(B) TIMING.—The Secretary shall require the owners of approximately one-third of the aggregate number of covered multifamily housing properties to submit the comprehensive needs assessments under this section for the properties in each of fiscal years 1993, 1994, and 1995, in a manner designed to ensure that upon the conclusion of fiscal year 1995 the assessments for all such properties have been submitted.

(2) CONTENTS.—Each comprehensive needs assessment for a covered multifamily housing property submitted under this subtitle shall contain the following information with respect to the property:

(A) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(B) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(C) A description of any resources available for meeting the current and future needs of the property described under subparagraphs (A) and (B) and the likelihood of obtaining such resources.

(D) A description of any assistance needed for the property under programs administered by the Secretary.

(3) SUBMISSION AND REVIEW.—

(A) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this subtitle.

(B) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

(C) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(D) REVIEW.—The Secretary shall review each comprehensive needs assessment and shall approve the assessment before the expiration of the 90-day period beginning upon the receipt of the assessment, unless the Secretary determines that the assessment has not been provided in a substantially complete manner.

(E) NOTICE.—The Secretary shall immediately notify each owner submitting a comprehensive needs assessment (and any State housing finance agency to which the owner has submitted an assessment under subparagraph (D)) of the approval or disapproval of the assessment upon making such determination. Within 30 days after disapproving any assessment, the Secretary shall inform the owner in writing of the reasons for disapproval. The Secretary shall require any owner whose assessment is disapproved to resubmit an amended assessment not later than 30 days after the owner receives the notice of disapproval.

(4) DEFINITION.—For purposes of this subsection, the term "covered multifamily housing property" means any housing—

(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or

State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990;

(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act); or

(iii) the HOME Investment Partnerships Act.

(j) PROJECT STABILIZATION ASSISTANCE.—Section 8(v) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)) is amended by adding at the end the following new paragraph:

"(3) In order to stabilize the occupancy and financial soundness of a multifamily residential project, any incremental loan management assistance made available under this section after October 1, 1992 shall be attached to a unit for a period of not less than 5 years. Thereafter, the assistance shall be converted to the voucher program under subsection (o) and each family shall have the discretion to remain in its unit or move.".

TITLE VII—RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1993 and 1994, in aggregate amounts not to exceed $2,446,855,600 and $2,525,154,979, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low-income borrowers receiving assistance under section 521(a)(1), $1,676,484,000 for fiscal year 1993 and $1,730,131,488 for fiscal year 1994.

"(B) For guaranteed loans under section 502(h) on behalf of low and moderate income borrowers, such sums as may be appropriated for fiscal years 1993 and 1994.

"(C) For loans under section 504, $12,400,000 for fiscal year 1993 and $12,796,800 for fiscal year 1994.

"(D) For insured loans under section 514, $16,821,600 for fiscal year 1993 and $17,359,891 for fiscal year 1994.

"(E) For insured loans under section 515, $739,500,000 for fiscal year 1993 and $763,164,000 for fiscal year 1994.

"(F) For loans under section 523(b)(1)(B), $800,000 for fiscal year 1993 and $825,600 for fiscal year 1994.

"(G) For site loans under section 524, $850,000 for fiscal year 1993 and $877,200 for fiscal year 1994.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1993 and 1994, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,100,000 for fiscal year 1993 and $1,135,200 for fiscal year 1994.

"(2) For grants under section 504, $21,100,000 for fiscal year 1993 and $21,775,200 for fiscal year 1994.

"(3) For purposes of section 509(c), $600,000 for fiscal year 1993 and $619,200 for fiscal year 1994.

"(4) For project preparation grants under section 509(f)(6), $5,300,000 in fiscal year 1993 and $5,469,600 in fiscal year 1994.

"(5) In fiscal years 1993 and 1994, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $21,700,000 for fiscal year 1993 and $22,394,400 for fiscal year 1994; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,500,000 for fiscal year 1993 and $10,836,000 for fiscal year 1994.

"(7) For grants under section 523(f), $13,900,000 for fiscal year 1993 and $14,344,800 for fiscal year 1994.

"(8) For grants under section 533, $30,800,000 for fiscal year 1993 and $31,785,600 for fiscal year 1994.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriations Act for fiscal years 1993 and 1994, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $414,100,000 for fiscal year 1993 and $427,351,000 for fiscal year 1994.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $12,178,000 for fiscal year 1993 and $12,567,000 for fiscal year 1994.".

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

SEC. 702. DEFERRED MORTGAGE DEMONSTRATION.

Section 502(g)(3) of the Housing Act of 1949 (42 U.S.C. 1472(g)(3)) is amended by striking "1991 and 1992" and inserting "1993 and 1994".

SEC. 703. SET-ASIDE FOR UNDERSERVED AREAS AND COLONIAS.

(a) AMENDMENTS.—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) by striking "1991" and inserting "1993"; and

(2) by striking "1992" and inserting "1994".

(b) COLONIAS REFINEMENTS.—Section 509(f)(4) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)) is amended—

(1) in subparagraph (A), by inserting after "(ii)" the following: "in, or in close proximity to, and serving the residents of,"; and

(2) in subparagraph (B)(ii), by inserting before "a colonia", the following ", or in close proximity to, and serving the residents of,".

SEC. 704. PERMANENT AUTHORITY FOR SECTION 523.

Section 523 of the Housing Act of 1949 (42 U.S.C. 1490c) is amended—

(1) in subsection (b)(1)(A), by inserting after "efforts" the following: ", including the repair of units financed under section 502 that are being held in inventory";

(2) by striking subsection (f); and

(3) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

SEC. 705. NONPROFIT SET-ASIDE.

Section 515(w) of the Housing Act of 1949 (42 U.S.C. 1485(w)) is amended—

(1) by striking "not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992" and inserting "not less than 9 percent of the amounts available in fiscal years 1993 and 1994";

(2) in paragraph (1), in the second sentence by striking "or under whole or partial control with a for-profit entity";

(3) in paragraph (1), by adding at the end the following new sentence: "A nonprofit entity is eligible to receive funds set aside under this subsection to sponsor a project in conjunction with a for-profit entity, in order to use low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. For the purposes of this subsection, a nonprofit entity is an organization that—

(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

(B) is a private organization which has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

(D) is not affiliated with or controlled by a for-profit organization;

(4) in paragraph (2), by adding at the end the following: "The Secretary may provide amounts available for reallocation under this subsection in excess of $750,000 in a given State, if such amounts are necessary to finance a project under this section."; and

(5) by striking paragraph (3) and inserting the following:

"(3) UNUSED AMOUNTS.—Any amounts set aside under this subsection from the allocation for any State in fiscal year 1994 or any fiscal year thereafter that are not obligated by a reasonable date established by the Secretary shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this subsection. After funds have been pooled and obligated for a reasonable period of time, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.".

SEC. 706. HOUSING PRESERVATION GRANTS.

Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended—

(1) in subsection (a)—

(A) by inserting "or replace" after "rehabilitate" each place it appears; and

(B) in the second sentence, by inserting "or replaced" after "rehabilitated";

(2) in subsection (b), by inserting "or replacement" after "Rehabilitation" and "rehabilitation" each place it appears;

(3) in subsection (b)—

(A) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) be used to provide loans or grants, not to exceed $15,000 per unit, to owners of single family housing to replace existing housing if the repair or rehabilitation of the housing is determined not to be practicable and the owner of the housing is otherwise unable to afford a loan under section 502 for replacement housing;"; and

(4) in subsection (d)—

(A) in paragraphs (3)(A), (3)(B), and (3)(C), by striking "repair and rehabilitation" each place it appears and inserting "repair, rehabilitation, or replacement"; and

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

"(5) A grantee may use housing preservation funds for replacement housing only after providing documentation that—

"(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

"(B) the owner of the housing lacks the income or repayment ability to qualify for a loan under section 502; and

"(C) the grantee will extend assistance to the owner of the housing on terms that the owner can afford.".

SEC. 707. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"SEC. 542. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

"(a) IN GENERAL.—The Secretary shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under this title—

"(1) to provide transitional housing; and

"(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

"(b) OTHER PRIORITIES NOT AFFECTED.—The priority uses of inventory property under this section shall not have a higher priority than—

"(1) the disposition of such property by sale to eligible families; or

"(2) the disposition of such property by transfer for use as rental housing by eligible families.

"(c) TRANSITIONAL HOUSING.—

"(1) LEASES AUTHORIZED.—The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

"(2) RENTAL TO ELIGIBLE FAMILIES.—A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under this title to purchase the housing from the Secretary.

"(d) LEASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a lease agreement with the organization or agency; and

"(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) LEASE TERMS.—A lease of inventory property under this section shall—

"(A) be for a period of not more than 10 years;

"(B) provide for the payment of $1 for the 10-year lease; and

"(C) provide the nonprofit organization or public agency—

"(i) the right to use the property for transitional housing; and

"(ii) the option to arrange for the sale of the property to an eligible purchaser.

"(e) PURCHASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a purchase agreement with the organization or agency; and

"(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) PURCHASE TERMS.—A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

"(f) SUBJECT TO APPROPRIATIONS.—The authority provided to the Secretary under this section is effective only to the extent approved in advance in appropriations Acts.".

SEC. 708. PRESERVATION.

(a) APPLICABILITY.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472) is amended—

(1) in subsection (c)(1)—

(A) by striking subparagraph (A); and

(B) by striking "(B)" before "The Secretary may not";

(2) in subsection (c)—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(C) in paragraph (5)(A)(i), by striking "(4)" and inserting "(3)";

(3) in subsection (c)(4)(A), by striking "pursuant to a contract entered into before December 21, 1979";

(4) in subsection (c)(5)(F), by striking "pursuant to a contract entered into before December 21, 1979"; and

(5) in subsection (c)(5)(G), by striking "pursuant to a contract entered into before December 21, 1979".

(b) INCENTIVES.—Section 502(c)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)) is amended by adding the following new clause:

"(vi) In the case of a project that has received rental assistance under section 8 of the United States Housing Act of 1937, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project.".

(c) OFFICE OF RURAL HOUSING PRESERVATION.—Title V of the Housing Act of 1949 is amended by adding at the end the following:

"SEC. 539. OFFICE OF RURAL HOUSING PRESERVATION.

"(a) ESTABLISHMENT.—There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director designated by the Secretary of Agriculture.

"(b) PURPOSES.—The purposes of the Office are:

"(1) to review and process applications under section 502(c) and section 515(t) related to the preservation of rural rental housing;

"(2) to provide technical or financial assistance to any other projects needing such assistance;

"(3) to coordinate and direct all other activities related to the preservation of rural housing; and

"(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949.".

SEC. 709. DISASTER ASSISTANCE.

Section 541(a)(1) of the Housing Act of 1949 (42 U.S.C. 1490q(a)(1)) is amended in the first sentence by striking "amounts available under this title" and inserting "amounts available to the Secretary through a set-aside of appropriations made available for the Federal Emergency Management Agency".

SEC. 710. ADMINISTRATIVE APPEALS PROCESS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study, based on the experiences in a representative number of States, of the adequacy of procedures under State law to protect the due process rights of tenants in rental housing who are facing eviction under State judicial action.

(b) REPORT.—Not later than 270 days after the date of enactment of this section, the Comptroller General shall transmit a report of the findings of the study referred to in subsection (a), together with recommendations concerning protection afforded to tenants of federally assisted rental housing, 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.

SEC. 711. PROHIBITION ON TRANSFER OF RURAL HOUSING PROGRAMS.

Section 501 of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following new subsection:

"(j) PROGRAM TRANSFERS.—Notwithstanding any other provision of law, the Secretary shall not transfer any program authorized by this title to the Rural Development Administration.".

SEC. 712. FMHA REFORM PROVISIONS.

(a) EQUITY CONTRIBUTION.—Section 515(r) of the Housing Act of 1949 (42 U.S.C. 1485(r)) is amended to read as follows:

"(r) The Secretary shall require a 6-percent contribution to equity, except that the Secretary may require a lower contribution to equity if a project is—

"(1) developed in an area with a high incidence of poverty and substandard housing relative to the national average; or

"(2) sponsored by a nonprofit organization and is not allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986.".

(b) INDEPENDENT COST CERTIFICATIONS.—Section 517(j)(3) of the Housing Act of 1949 (42 U.S.C. 1487(j)(3)) is amended by inserting after "industry," the following: "independent audits of project expenses,".

(c) COMPETITIVE BIDDING.—The Secretary of Agriculture shall undertake a demonstration program in several States comparing negotiated bid prices to competitively bid prices. The Secretary shall report to the Congress on the results of the demonstration program not later than 18 months after the date of enactment of this Act.

(d) UNIFORM PROJECT COSTS.—The Secretary shall establish standard guidelines for allowable project costs among State offices.

(e) COORDINATION OF HOUSING AND TAX BENEFITS.—The Secretary of Agriculture shall develop, in consultation with housing credit agencies (as that term is defined under section 42 of the Internal Revenue Code of 1986), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of the Internal Revenue Code of 1986 for the purpose of achieving compliance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)).

(f) COORDINATION OF HOUSING RESOURCES.—The Secretary shall establish a process for co-

ordinating the selection of projects under section 515 of the Housing Act of 1949 with the housing needs and priorities as established in a State Comprehensive Housing Affordability Strategy and Low Income Housing Tax Credit allocation plan.

(g) IMPLEMENTATION.—Not later than 60 days after the date of enactment of this Act, the Secretary shall promulgate regulations to implement this section and to implement cost containment and vulnerability measures to address identity of interest relationships, reserve account abuses, and program enforcement authorities.

SEC. 713. RURAL VOUCHER PROGRAM.

Title V of the Housing Act of 1949 (42 U.S.C. 501 et seq.) is amended—

(1) by striking section 513(e) (42 U.S.C. 1483(e));

(2) by amending the last sentence of section 533(a) (42 U.S.C. 1490m(a)) to read as follows:

"The Secretary may also provide assistance payments as provided by section 542 of this title upon the request of the grantee in order to minimize the displacement of very low-income tenants residing in units rehabilitated with assistance under this section."; and

(3) by adding at the end the following new section:

"SEC. 542. RURAL HOUSING VOUCHER PROGRAM.

"(a) IN GENERAL.—To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a rural housing voucher program to assist very low-income families and persons to reside in rental housing in rural areas. For such purposes, the Secretary may provide assistance using a payment standard based on the fair market rental rate established by the Secretary for the area. The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family's monthly adjusted income, except that such monthly assistance payment shall not exceed the amount which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family's monthly gross income.

"(b) COORDINATION.—In carrying out the rural housing voucher program under this section, the Secretary shall coordinate activities under this section with activities assisted under sections 515 and 533 of this title.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $140,000,000 for fiscal years 1993 and 1994 to carry out this section.".

SEC. 714. SITE ACQUISITION AND DEVELOPMENT.

Section 524(a) of the Housing Act of 1949 (42 U.S.C. 1490d(a)) is amended by—

(1) inserting "(1) IN GENERAL.—" before "The Secretary" in the first sentence; and

(2) adding at the end the following:

"(2) REVOLVING FUNDS.—The Secretary may make grants to nonprofit housing agencies to establish revolving loan funds for the acquisition and preparation of building sites for low-income housing. Any proceeds and repayments from such loans shall be returned to the revolving loan fund to be used for purposes related to this section. Loan funds and interest payments shall be used solely for the acquisition of land; the preparation of land for building sites; the payment of reimbursable legal and technical costs; and technical assistance and administrative costs, not to exceed 10 percent of the fund.".

SEC. 715. SUBDIVISION APPROVAL.

Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended by adding at the end the following new subsection:

"(d) For loans made under this title, the Secretary shall accept subdivisions that have been approved by local, county or State agencies.".

SEC. 716. CONSIDERATION OF CERTAIN AREAS AS RURAL AREAS.

Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this title."

TITLE VIII—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly

SEC. 801. AUTHORIZATION.

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)) is amended to read as follows:

"(l) AUTHORIZATIONS.—

"(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purposes of funding capital advances in accordance with subsection (c)(1) $556,050,000 for fiscal year 1993 and $573,844,000 for fiscal year 1994. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the Cranston-Gonzalez National Affordable Housing Act shall constitute a revolving loan fund to be used by the Secretary in carrying out this section.

"(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2) the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $465,638,000 for fiscal year 1993 and $480,538,000 for fiscal year 1994.".

(b) REVISED CONGREGATE HOUSING SERVICES PROGRAM.—Section 802(n)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(n)(1)) is amended by striking "$25,000,000 for fiscal year 1991, and $26,100,000 for fiscal year 1992" and inserting "$35,036,000 for fiscal year 1993 and $36,158,000 for fiscal year 1994".

(c) HOPE FOR ELDERLY INDEPENDENCE.—Section 803 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012) is amended—

(1) in subsection (j), by striking "$34,000,000 for fiscal year 1991, and $35,500,000 for fiscal year 1992" and inserting "$35,500,000 for fiscal year 1993 and $36,636,000 for fiscal year 1994"; and

(2) in subsection (k), by striking "$10,000,000 to become available in fiscal year 1991, and $10,400,000 to become available in fiscal year 1992" and inserting "$10,400,000 to become available in fiscal year 1993 and $10,733,000 to become available in fiscal year 1994".

SEC. 802. SUPPORTIVE HOUSING FOR THE ELDERLY.

Section 202(f)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(2)) is amended by adding at the end ", taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities;".

SEC. 803. RENTAL ASSISTANCE FOR THE ELDERLY.

Section 202(l)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by striking "20 percent" and inserting "15 percent".

SEC. 804. DEMONSTRATION PERIOD FOR HOPE FOR ELDERLY INDEPENDENCE.

(a) TERMINATION OF PROGRAM.—The second sentence of section 803(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(a)) is amended by striking "beginning on the date of the enactment of this Act" and inserting "determined by the Secretary".

(b) DEFINITION.—Section 803(g)(1) of the Cranston-Gonzalez National Affordable Housing Act is amended to read as follows:

"(1) The term 'demonstration period' means the 5-year period referred to in subsection (A).".

SEC. 805. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

Section 802(i)(1)(B)(i) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(i)(1)(B)(i)) is amended by striking "3-year" each place it appears and inserting "6-year".

Subtitle B—Supportive Housing for Persons With Disabilities

SEC. 811. AUTHORIZATION.

Section 811(l) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(l)) is amended—

(1) in paragraph (1), by striking "$271,000,000 for fiscal year 1992" and inserting "$106,152,000 for fiscal year 1993 and $109,549,000 for fiscal year 1994"; and

(2) in paragraph (2), by striking "$246,000,000 for fiscal year 1992" and inserting "$103,364,000 for fiscal year 1993 and $106,672,000 for fiscal year 1994".

SEC. 812. PARTICIPATING ORGANIZATIONS.

Section 811(k)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(6)) is amended—

(1) by striking "incorporated private";

(2) by redesignating subparagraphs (A), (B), and (C), as subparagraphs (B), (C), and (D), respectively; and

(3) by inserting after "foundation—" the following new subparagraph:

"(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;".

Subtitle C—Supportive Housing for the Homeless

SEC. 821. AUTHORIZATION.

(a) EMERGENCY SHELTER GRANTS PROGRAM.—The text of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $99,247,000 for fiscal year 1993 and $102,423,000 for fiscal year 1994.".

(b) SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $203,475,000 for fiscal year 1993 and $209,986,000 for fiscal year 1994.".

(c) SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $15,278,000 for fiscal year 1993 and $15,767,000 for fiscal year 1994.".

(d) SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $108,360,000 on or after October 1, 1992, and by $111,828,000 on or after October 1, 1993.".

(e) SHELTER PLUS CARE.—Section 459 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403h) is amended to read as follows:

"SEC. 459. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated $42,466,000 for fiscal year 1993, and $43,825,000 for fiscal year 1994.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $83,714,000 on or after October 1, 1992, and $86,392,000 on or after October 1, 1993.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated $132,420,000 for fiscal year 1993, and $136,658,000 for fiscal year 1994.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.".

SEC. 822. SAFE HAVENS FOR THE HOMELESS.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle G—Safe Havens for the Homeless

"SEC. 491. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Secretary may make grants to applicants to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as Safe Havens, to service-resistent homeless persons who are seriously mentally ill.

"(b) PURPOSES.—The demonstration program carried out under this subtitle shall demonstrate—

"(1) whether and on what basis eligible persons choose to reside in Safe Havens;

"(2) the extent to which, after a period of residence in a Safe Haven, residents are willing to participate in mental health treatment programs, substance abuse treatment, or other treatment programs and to move toward a more traditional form of permanent housing and the availability in the community of such permanent housing and treatment programs;

"(3) whether Safe Havens are cost-effective in comparison with other alternatives for eligible persons; and

"(4) the various ways in which Safe Havens may be used to provide accommodations and low-demand services and referrals for eligible persons.

"SEC. 492. DEFINITIONS.

"For purposes of this subtitle:

"(1) APPLICANT.—The term 'applicant' means a public or private nonprofit organization, State, or unit of general local government.

"(2) ELIGIBLE PERSON.—The term 'eligible person' means an individual who—

"(A) is seriously mentally ill or is a chronic abuser of drugs or alcohol and resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

"(B) is currently unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services.

This definition does not include a person whose sole impairment is substance abuse.

"(3) FACILITY.—The term 'facility' means a structure or a clearly identifiable portion of a structure providing privacy for its occupants that is assisted under this subtitle.

"(4) LOW-DEMAND SERVICES AND REFERRALS.—The term 'low-demand services and referrals' means the provision of mental health, substance abuse, and other supportive services and referrals for services in a noncoercive manner, which may include medication management and assistance in obtaining entitlement benefits and in obtaining other supportive services including mental health treatment and substance abuse treatment.

"(5) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a recipient operating a Safe Haven under this subtitle with respect to—

"(A) the operation of the facility, including the cost of 24-hour management, and maintenance, repair, and security;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) other reasonable costs necessary to the operation of the facility, which may include appropriate outreach and drop-in services.

"(6) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(7) RECIPIENT.—The term 'recipient' means an applicant that receives a grant under this subtitle.

"(8) SAFE HAVEN.—The term 'Safe Haven' means a facility—

"(A) that provides 24-hour residence for eligible persons who may reside for an unspecified duration;

"(B) that provides private or semiprivate accommodations;

"(C) that may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

"(D) that may provide supportive services to eligible persons who are not residents on a drop-in basis; and

"(E) in which overnight occupancy is limited to no more than 25 persons.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) SERIOUSLY MENTALLY ILL.—The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the meaning given such term in section 102(a)(1) of the Housing and Community Development Act of 1974.

"SEC. 493. PROGRAM ASSISTANCE.

"(a) IN GENERAL.—

"(1) ELIGIBLE ACTIVITIES.—A grant under this subtitle may be used for the following activities:

"(A) The rehabilitation, acquisition or acquisition and rehabilitation of an existing structure for use in providing a Safe Haven.

"(B) The leasing of an existing structure for use in providing a Safe Haven.

"(C) To cover the operating costs of a Safe Haven.

"(D) To cover the costs of administering a Safe Haven program, not to exceed 10 percent of the cost of the activities described in subparagraphs (A) through (C).

"(E) Outreach activities designed to inform eligible persons about and attract them to a Safe Haven program.

"(F) The provision of low-demand services and referrals for residents of a Safe Haven, except that grants under this subtitle may not be used to cover more than 50 percent of the cost of such services and referrals.

"(G) Other activities that further the purposes of this subtitle, including the modification of an existing facility to use a portion of the facility to provide eligible persons with a Safe Haven.

"(2) PERIOD OF GRANTS.—The period of time during which grants may be used under subparagraphs (B), (C), (D), (E) and (F) of paragraph (1) may not exceed 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to—

"(A) the determination of the Secretary that the performance of the recipient under this subtitle is satisfactory; and

"(B) the availability of future appropriations.

"(3) LIMIT ON AMOUNT.—The total amount of grants under subsection (a) may not exceed such amounts as the Secretary may prescribe by regulation.

"(b) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient is required to supplement a grant provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary that it has complied with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) CALCULATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds required under paragraph (1), a recipient may include any funds derived from another source, occupancy charges paid by residents, the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the program of the recipient.

"SEC. 494. REQUIREMENTS.

"(a) APPLICATIONS.—

"(1) IN GENERAL.—Applications for grants under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a description of the proposed facility;

"(B) a description of the number and characteristics of the eligible persons expected to occupy the Safe Haven;

"(C) a plan for identifying and selecting eligible persons to participate;

"(D) a program plan, containing a description of—

"(i) the operation of the facility, including staffing plans and facility rules;

"(ii) how the applicant will secure low-demand services and referrals to be provided for residents of the Safe Haven who are willing to use them;

"(iii) how the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;

"(iv) how access to supportive services will be secured for residents willing to use them;

"(v) how access to permanent housing with appropriate services, such as the Shelter Plus Care program described in subtitle F, will be sought after residents are stabilized; and

"(vi) how the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the Safe Haven;

"(E) a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(F) an estimate of program costs;

"(G) a description of the resources that are expected to be made available in compliance with section 493(b);

"(H) assurances satisfactory to the Secretary that the facility will have 24-hour, on-site management, if practicable;

"(I) assurances satisfactory to the Secretary that the facility will be operated for the purpose

specified in the application for each year in which assistance is provided under this subtitle;

"(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the facility is located;

"(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

"(L) a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the Safe Haven, their willingness to use low-demand services and referrals, the availability and quality of services used, and the movement of residents toward a more traditional form of permanent housing after a period of residency in the Safe Haven; and

"(M) such other information as the Secretary may require.

"(3) SITE CONTROL.—The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of a grant award under this subtitle. If an applicant fails to obtain control of the site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this subtitle.

"(b) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

"(1) the extent to which the applicant demonstrates the ability to develop and operate a Safe Haven;

"(2) the extent to which there is a need for a Safe Haven in the jurisdiction in which the facility will be located;

"(3) the extent to which the Safe Haven would meet the needs of the eligible persons proposed to be served by the applicant;

"(4) the extent to which the program would offer opportunities for eligible persons who wish to obtain permanent housing and supportive services after a period of residency in a Safe Haven;

"(5) geographic diversity among applicants selected to receive assistance;

"(6) the cost-effectiveness of the proposed program; and

"(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(c) REQUIRED AGREEMENTS.—The Secretary may not make a grant to any program under this subtitle unless the applicant agrees—

"(1) to develop and operate the proposed facility as a Safe Haven in accordance with the provisions of this subtitle;

"(2) to ensure that the facility meets any standards of habitability established by the Secretary;

"(3) to provide low-demand services and referrals for the residents of the Safe Haven;

"(4) to prohibit the use of illegal drugs and alcohol in the facility;

"(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(6) not to establish limitations on the duration of residency;

"(7) not to require participation in low-demand services and referrals as a condition of occupancy;

"(8) to monitor and report to the Secretary on the applicant's progress in carrying out the Safe Havens program;

"(9) to utilize, to the maximum extent practicable, eligible persons in renovating, maintaining, and operating facilities assisted under this subtitle and in providing services assisted under this subtitle;

"(10) to provide for the participation of a significant number of homeless individuals or former homeless individuals on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle; and

"(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

The Secretary may grant a waiver to an applicant that is unable to meet the requirement of paragraph (10), if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"SEC. 495. OCCUPANCY CHARGE.

"Each eligible person who resides in a facility assisted under this subtitle shall pay an occupancy charge in an amount determined by the recipient, but not to exceed the amount determined under section 3(a) of the United States Housing Act of 1937. The occupancy charge may be phased in or reduced based on the type of living accommodations provided. The recipient may waive occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be reserved to assist residents in moving to a more traditional form of permanent housing.

"SEC. 496. TERMINATION OF ASSISTANCE.

"If an eligible person who resides in a Safe Haven or who receives low-demand services or referrals endangers the safety, welfare, or health of other residents, or repeatedly violates a condition of occupancy contained in the rules for the Safe Haven (as set forth in the application submitted under this subtitle), the recipient may terminate such residency or assistance in accordance with a formal process, established by the rules for the Safe Haven.

"SEC. 497. EVALUATION AND REPORT.

"The Secretary shall conduct an evaluation of the Safe Haven demonstration program and shall submit a report not later than December 31, 1994, to the Congress setting forth the findings of the Secretary as a result of the evaluation.

"SEC. 498. REGULATIONS.

"(a) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the amendments made by this subtitle.

"(b) CONSULTATION.—In establishing requirements to carry out the provisions of this subtitle, and in considering applications under this subtitle, the Secretary shall consult with officials of the appropriate agencies of the Department of Health and Human Services and with representative provider and public interest groups.

"(c) ELIGIBILITY FOR SSI AND MEDICAID.—

"(1) SUPPLEMENTAL SECURITY INCOME.—All provisions of the Supplemental Security Income program (title XVI of the Social Security Act), and of State programs in supplementation thereof, shall apply to participants in the Safe Havens Demonstration program, except that no individual living in a Safe Havens Demonstration program residence shall—

"(A) be considered an inmate of a public institution (as provided in section 1611(e)(1)(A) of that Act); or

"(B) have title XVI benefits reduced or terminated because of the receipt of support and maintenance (as provided in section 1612(a)(2)(A) of that Act), to the extent such support and maintenance is received as a result of participation in the Safe Havens Demonstration program.

"(2) MEDICAID.—A Safe Havens Demonstration program residence shall not be considered a hospital, nursing facility, institution for mental disease as defined under section 1905(i) of the Social Security Act, or any other inpatient facility, for purposes of the program under title XIX of that Act, and individuals shall not be denied eligibility for medicaid because of residency in such residence.

"SEC. 499. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $75,000,000 for fiscal year 1993 and $77,400,000 for fiscal year 1994.".

SEC. 823. APPLICABILITY OF SHELTER PLUS CARE.

Section 458(5) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403g(5)) is amended by adding at the end the following: "Such term shall also include any public, nonprofit organization that meets the criteria contained in subparagraphs (A), (B), and (C) of section 104(5) of such Act.".

SEC. 824. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

Section 825(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11301 note) is amended in the first sentence—

(1) by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "National Affordable Housing Act Amendments of 1992"; and

(2) by striking "July 1, 1992" and inserting "July 1, 1994".

SEC. 825. SHELTER PLUS CARE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 459 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403h) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) IN GENERAL.—For purposes of the housing programs under this subtitle, there is authorized to be appropriated $258,600,000 for fiscal year 1993 and $266,875,000 for fiscal year 1994.";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 455 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403d) is amended by adding at the end the following new subsection:

"(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the participation of a significant number of homeless individuals or former homeless individuals on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.".

(c) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 456 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403e) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

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

"(5) to employ or otherwise involve, to the maximum extent practicable, homeless individ-

uals and families in constructing or rehabilitating housing assisted under this title and in providing services required under this title.".

(d) REDESIGNATION AND AMENDMENT OF PART II PROVISIONS.—Subtitle F of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) PART II HEADING.—By amending the heading for part II to read as follows:

"PART II—TENANT-BASED RENTAL ASSISTANCE".

(2) PARTS III AND IV.—By striking parts III and IV.

(3) PURPOSE.—By striking section 461 and inserting the following new section:

"SEC. 471. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide tenant-based rental housing assistance for eligible persons in accordance with this part.".

(4) HOUSING ASSISTANCE.—By redesignating section 462 as section 472 and amending such section by striking "Where" and inserting the following: "The eligible person shall select the unit in which such person will live using rental assistance under this part; except that where".

(5) AMOUNT OF ASSISTANCE.—By redesignating section 463 as section 473 and amending such section by striking the last sentence.

(e) TRANSFER, REDESIGNATION, AND AMENDMENT OF GENERAL PROVISIONS.—Subtitle F of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) TERMINATION OF ASSISTANCE.—By redesignating section 457 as section 461.

(2) DEFINITIONS.—By redesignating section 458 as section 462 and amending such section—

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) The term 'applicant' means a State, unit of general local government, Indian tribe, or public housing agency."; and

(B) in paragraph (5), by inserting before the period at the end ", and includes public nonprofit organizations".

(3) AUTHORIZATION OF APPROPRIATIONS.—By redesignating section 459 (as amended by subsection (a) of this section) as section 463.

(4) HOUSING STANDARDS AND RENT REASONABLENESS.—By redesignating section 464 as section 457, and amending subsection (a)(1) of such section by striking "(or if no such agency exists in the applicable area, an entity selected by the Secretary)".

(5) TENANT RENT AND ADMINISTRATIVE FEES.—By redesignating sections 465 and 466 as sections 458 and 459, respectively.

(6) OCCUPANCY.—By inserting after section 459 (as redesignated by paragraph (5) of this subsection) the following new section:

"SEC. 460. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this subtitle shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit assisted under this subtitle before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person.".

(f) PROJECT- AND SPONSOR-BASED RENTAL ASSISTANCE AND SINGLE ROOM OCCUPANCY DWELLINGS.—Subtitle F of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended by inserting at the end the following new parts:

"PART III—PROJECT-BASED RENTAL ASSISTANCE

"SEC. 476. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide project-based rental housing assistance for eligible persons in accordance with this part.

"SEC. 477. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

"SEC. 478. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—Each contract with a recipient for assistance under this part shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5-year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least $3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 12 months of notification of grant approval, the contract shall be for a term of 10 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the fair market rental under section 8(e) of the United States Housing Act of 1937 in effect at the time the application is approved.

"PART IV—SPONSOR-BASED RENTAL ASSISTANCE

"SEC. 481. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide sponsor-based rental assistance for eligible persons in accordance with this part.

"SEC. 482. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

"SEC. 483. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—The contract with a recipient of assistance under this part shall be for a term of 5 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(e) of the United States Housing Act of 1937 in effect at the time the application is approved.".

SEC. 826. SUPPORTIVE HOUSING PROGRAM.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking subtitles C and D and inserting the following new subtitle:

"Subtitle C—Supportive Housing Program

"SEC. 421. PURPOSE.

"The purpose of this subtitle is to promote the development of supportive housing and supportive service programs to assist homeless persons and families, in the transition from homelessness, and to enable homeless persons to live as independently as possible.

"SEC. 422. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'applicant' means a State, Indian tribe, metropolitan city, urban county, governmental entity, public or private nonprofit organization, that is eligible to be a recipient under this subtitle and submits an application under section 426(a).

"(2) The term 'person with disabilities' shall mean a person who is under a disability as defined in section 223 of the Social Security Act or a household within the definition of 'person with disabilities' contained in section 811(k) of the National Affordable Housing Act of 1990. Notwithstanding the previous sentence, the term 'persons with disabilities' shall include persons with acquired immunodeficiency syndrome.

"(3) The term 'Indian tribe' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(4) The term 'metropolitan city' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'operating costs' means expenses incurred by a recipient operating supportive housing under this subtitle with respect to—

"(A) the administration, maintenance, repair, and security of such housing;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) the conducting of the assessment required in section 426(c)(2).

"(6) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

"(7) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(8) The term 'project' means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this subtitle or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle, or supportive services.

"(9) The term 'recipient' means any governmental or nonprofit entity that receives assistance under this subtitle.

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) The term 'supportive housing' means a project that meets the requirements of section 424.

"(13) The term 'supportive services' means services under section 425.

"(14) The term 'urban county' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 423. ELIGIBLE ACTIVITIES.

"(a) IN GENERAL.—The Secretary may provide the following assistance under this subtitle:

"(1) ACQUISITION AND REHABILITATION.—A grant, in an amount not to exceed $200,000, for the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of ac-

quisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

"(2) NEW CONSTRUCTION.—A grant, in an amount not to exceed $400,000, for new construction of a structure to provide supportive housing.

"(3) LEASING.—A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure for purposes of this subtitle.

"(4) OPERATING COSTS.—Annual payments for operating costs of housing assisted under this subtitle, not to exceed 75 percent of the annual operating costs of such housing. Grant recipients may reapply for such assistance as needed to continue the use of the project for purposes of this subtitle.

"(5) SUPPORTIVE SERVICES.—A grant for costs of supportive services provided to homeless individuals. Such services may be provided independently from housing assisted under this subtitle. Any recipient may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

"(6) TECHNICAL ASSISTANCE.—Technical assistance in—

"(A) establishing supportive housing;

"(B) operating supportive housing; and

"(C) providing supportive services to homeless individuals.

"(b) USE RESTRICTIONS.—

"(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—Projects assisted under subsection (a) (1) or (2) shall be operated for not less than 20 years for the purpose specified in the application.

"(2) OTHER ASSISTANCE.—Projects assisted under subsection (a) (3), (4), (5), or (6) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

"(3) CONVERSION.—If the Secretary determines that a project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of very low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

"(c) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

"(1) REPAYMENT AND CONVERSION OF ASSISTANCE.—Subject to the provisions of this section, any grant provided under subsection (a) (1) or (2) shall be repaid if the project ceases to be used as supportive housing prior to the expiration of the time period specified in the grant, on such terms as may be prescribed by the Secretary. The Secretary shall require recipients to repay 100 percent of the grant if the project is used as supportive housing for fewer than 10 years following initial occupancy. If the project is used as supportive housing for more than 10 years, but less than 20 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the property is used as supportive housing.

"(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a) (1) or (2), occurring before the expiration of the 20-year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

"(3) EXCEPTION.—A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1)(A) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this subtitle.

"SEC. 424. SUPPORTIVE HOUSING.

"(a) IN GENERAL.—Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this subtitle if—

"(1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and

"(2) the housing—

"(A) is transitional housing;

"(B) is permanent housing for homeless persons with disabilities; or

"(C) is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

"(b) TRANSITIONAL HOUSING.—For purposes of this section, the term 'transitional housing' means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months (or such longer period as the Secretary determines is necessary).

"(c) PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.—For purposes of this section, the term 'permanent housing for homeless persons with disabilities' means community-based housing for handicapped homeless persons that provides long-term housing and supportive services for not more than—

"(1) 8 such persons in a single structure or contiguous structures;

"(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

"(3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

"(d) SINGLE ROOM OCCUPANCY DWELLINGS.—A project may provide supportive housing in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

"SEC. 425. SUPPORTIVE SERVICES.

"(a) IN GENERAL.—Each supportive housing project shall ensure the provision of appropriate supportive services for residents of the project.

"(b) REQUIREMENTS.—Supportive services provided in connection with a supportive housing project shall address the special needs of the individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

"(c) SERVICES.—Supportive services may include the establishment and operation of such activities as child care services programs, child care, employment assistance programs, outpatient health services, meals, case management, assistance in obtaining permanent housing, counseling, including employment and nutritional counseling, security measures, and assistance in obtaining other Federal, State, and local services (including mental health benefits, employment and medical assistance), and providing other appropriate services.

"(d) PROVISION OF SERVICES.—Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

"SEC. 426. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—

"(1) FORM AND PROCEDURE.—Applications for assistance under this subtitle shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary.

"(2) CONTENTS.—The Secretary shall require that applications contain at a minimum—

"(A) a description of the proposed project, including the activities to be undertaken;

"(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this subtitle;

"(C) a description of the public and private resources that are expected to be made available for the project;

"(D) in the case of projects assisted under section 423(a) (1) or (2), assurances satisfactory to the Secretary that the project will be operated for not less than 10 years for the purpose specified in the application;

"(E) in the case of projects assisted under this title that do not receive assistance under such sections, annual assurances during the period specified in the application that the project will be operated for the purpose specified in the application for such period;

"(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government; and

"(G) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(3) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of a 1-year period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing which will eventually be owned or controlled by the families or individuals served. If any recipient fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

"(b) SELECTION CRITERIA.—The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this subtitle by a national competition based on criteria established by the Secretary, which shall include—

"(1) the ability of the applicant to develop and operate supportive housing;

"(2) the innovative quality of the proposal in providing supportive housing;

"(3) the need for the type of supportive housing proposed by the applicant in the area to be served;

"(4) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources;

"(5) the cost-effectiveness of the proposed project;

"(6) the extent to which the applicant has demonstrated coordination with other Federal, State, local and private entities serving homeless persons in the planning and operation of the project, to the extent practicable; and

"(7) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

"(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for any project under this subtitle unless the applicant agrees—

"(1) to operate the proposed project as supportive housing in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by such projects and the availability of such services to such individuals;

"(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(4) to monitor and report to the Secretary on the progress of the project;

"(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted under this subtitle, and (B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

"(6) to utilize, to the maximum extent practicable, homeless individuals and families in constructing, rehabilitating, maintaining, and operating the project assisted under this subtitle and in providing supportive services for the project; and

"(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

"(d) OCCUPANCY CHARGE.—Each homeless individual or family residing in a project providing supportive housing shall pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

"(e) MATCHING FUNDING.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs 423(a) (1) and (2) of this subtitle with an equal amount of funds from sources other than this subtitle.

"(f) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the participation of a significant number of homeless individuals or former homeless individuals on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) LIMITATION ON USE OF FUNDS.—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons or handicapped homeless persons.

"(i) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of a grant received under this subtitle for administrative purposes.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 427. REGULATIONS.

"Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

"SEC. 428. REPORTS TO CONGRESS.

"The Secretary shall submit a report to the Congress annually, which summarizes the activities carried out under this subtitle and sets forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

"SEC. 429. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subtitle $187,200,000 for fiscal year 1993.

"(b) SET-ASIDES.—Of any amounts appropriated to carry out this subtitle—

"(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

"(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

"(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 423(a)(5) and 425, not provided in conjunction with supportive housing.

"(c) REALLOCATIONS.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

(b) TRANSITION.—Notwithstanding the amendment made by subsection (a), before the date of the effectiveness of the regulations issued under section 427 of the Stewart B. McKinney Homeless Assistance Act (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of the Stewart B. McKinney Homeless Assistance Act, as in effect immediately before the enactment of this Act. Any grants made before such effective date shall be subject to the provisions of such subtitles.

SEC. 827. AUTHORIZATION OF APPROPRIATIONS FOR THE INTERAGENCY COUNCIL ON THE HOMELESS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,500,000 for fiscal year 1993, and $1,700,000 for fiscal year 1994.".

SEC. 828. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

SEC. 829. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $180,000,000 for fiscal year 1993, and $200,000,000 for fiscal year 1994.".

SEC. 830. SINGLE ROOM OCCUPANCY HOUSING FOR THE HOMELESS.

Subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401 et seq.) is amended to read as follows:

"Subtitle E—Single Room Occupancy Housing for the Homeless

"SEC. 441. PURPOSE.

"The purpose of the program authorized under this subtitle is to increase the supply of decent, safe and sanitary single room occupancy housing for homeless individuals.

"SEC. 442. DEFINITIONS.

"For purposes of this subtitle:

"(1) APPLICANT.—The term 'applicant' means a State, Indian tribe, metropolitan city, urban county, public housing agency, other governmental entity, or private nonprofit organization that is eligible to be a recipient under this subtitle.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(4) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a recipient operating housing under this subtitle with respect to—

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuel, furnishings, and equipment for such housing.

"(5) PRIVATE NONPROFIT ORGANIZATION.—The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(6) PROJECT.—The term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this subtitle or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle.

"(7) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(8) RECIPIENT.—The term 'recipient' means any governmental or nonprofit entity that is approved by the Secretary as to financial responsibility.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) SINGLE ROOM OCCUPANCY HOUSING.—The term 'single room occupancy housing' means

residential properties in which some or all of the dwelling units do not contain bathroom or kitchen facilities. Such housing shall be safe and sanitary and meet all applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located.

"(11) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Island, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) URBAN COUNTY.—The term 'urban county' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 443. TYPES OF ASSISTANCE.

"(a) IN GENERAL.—The Secretary may provide the following assistance to a project under this subtitle:

"(1) A grant for acquisition, rehabilitation, or acquisition and rehabilitation, of an existing structure to provide single room occupancy dwellings. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered a cost of acquisition eligible for a grant under this paragraph if the structure was not used as housing for the homeless prior to the receipt of assistance. Such a grant is limited to the portion of the structure used for single room occupancy dwellings and common areas for primary use of the residents or for the provision of supportive services to such residents and other homeless individuals.

"(2) A grant for new construction of a structure to provide single room occupancy dwellings. Such a grant is limited to the portion of the structure used for single room occupancy dwellings and common areas for primary use of the residents or for provision of supportive services to such residents and other homeless individuals.

"(3) Annual payments for operating costs of single room occupancy dwellings, not to exceed 75 percent of the costs of operating such housing, during the 10-year period under section 444(a)(2)(D). Subject to the availability of appropriations, the Secretary may approve payment of operating costs of single room occupancy dwellings beyond the initial 10-year period.

"(4) Technical assistance in establishing or operating single room occupancy dwellings.

"(b) AMOUNT OF ASSISTANCE.—The Secretary may establish a maximum amount that may be awarded to any applicant.

"(c) REPAYMENT.—Any grant provided under paragraphs (1) or (2) of subsection (a) shall be repaid on such terms as may be prescribed by the Secretary if the project is used as single room occupancy dwellings for homeless individuals for fewer than 10 years following initial occupancy. A project may continue to be treated as single room occupancy dwellings for the purposes of this subsection if the Secretary determines that such project is no longer needed for use as single room occupancy dwellings for homeless individuals and approves the use of such project for the direct benefit of low-income persons.

"(d) PREVENTION OF UNDUE BENEFITS.—Upon any sale or other disposition of a project acquired or rehabilitated with assistance under this subtitle prior to the close of 20 years after the project is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of low-income persons or where all of the proceeds are used to provide single room occupancy dwellings for homeless individuals, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

"SEC. 444. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—

"(1) IN GENERAL.—Applications for assistance under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that applications contain at a minimum—

"(A) a description of the proposed project;

"(B) a description of the size and characteristics of the population that would occupy the single room occupancy dwellings;

"(C) a description of the public and private resources that are expected to be made available for the project;

"(D) assurances satisfactory to the Secretary that the project assisted will be operated for not less than 10 years for the purpose specified in the application, except that in the case of projects not receiving a grant under paragraph (1) or (2) or section 443(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year;

"(E) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of local government within which the facility is located.

"(F) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(3) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed project not later than 1 year after receiving assistance under this subtitle. If an applicant fails to obtain ownership or control of a site within 1 year after receipt of such assistance, the grant shall be recaptured and reallocated.

"(b) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate single room occupancy dwellings for homeless individuals;

"(2) the need for such single room occupancy dwellings in the area to be served;

"(3) the extent to which the amount of assistance to be provided under this subtitle will be leveraged with resources from other public and private sources;

"(4) the cost effectiveness of the proposed project;

"(5) the extent to which the recipient involves homeless and formerly homeless individuals in constructing, rehabilitating, maintaining, and operating the project assisted under this subtitle;

"(6) the extent to which homeless and formerly homeless individuals are represented on boards of directors or policymaking entities, or otherwise consulted in the planning, development, and operation of the project;

"(7) the extent to which the applicant has demonstrated coordination with other entities serving homeless persons in the planning and operation of the project; and

"(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the project established by this subtitle in an effective and efficient manner.

"(c) REQUIRED AGREEMENTS.—The Secretary may not approve assistance for any project under this subtitle unless the applicant agrees—

"(1) to operate the proposed project as single room occupancy dwellings for homeless individuals in accordance with the provisions of this subtitle;

"(2) to meet housing quality standards established by the Secretary, including the installation of a sprinkler system that protects all major spaces (including hallways, large common areas, and other areas specified in local fire, building, or safety codes), hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law;

"(3) to provide such residential supervision as the Secretary determines is necessary to ensure the safety of the residents and the maintenance of the facility;

"(4) to monitor and report to the Secretary on the progress of the project; and

"(5) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established in this subtitle in an effective and efficient manner.

"(d) OCCUPANT RENT.—Each individual residing in a facility assisted under this subtitle shall pay as rent an amount not to exceed an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(e) MATCHING FUNDING.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs 443(a) (1) and (2) of this subtitle with an equal amount of funds from sources other than this subtitle.

"(f) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the participation of a significant number of homeless individuals or formerly homeless individuals on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"SEC. 445. GUIDELINES.

"(a) REGULATIONS.—Not later than 90 days following the date of enactment of this Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle.

"(b) LIMITATION ON USE OF FUNDS.—

"(1) NOT TO REPLACE OTHER FUNDS.—No assistance received under this subtitle may be used to replace other public funds previously used, or designated for use, to assist homeless individuals.

"(2) 10 PERCENT MAXIMUM.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for projects located within any 1 unit of general local government.

"(c) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of a grant received under this subtitle for administrative purposes.

"SEC. 446. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subtitle. The report shall be submitted not later than 3 months after the end of each fiscal year.

"SEC. 447. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $108,360,000 for fiscal year 1993 and $111,828,000 for fiscal year 1994.".

SEC. 830A. MISCELLANEOUS PROVISIONS.

(a) RESERVATION OF FUNDS.—On or after the effective date of this section, no amounts may be made available for assistance under subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the effective date of this section, except for projects for which a reservation of funds was made by the Secretary before that effective date.

(b) GRANTS ALREADY MADE.—Any grant already made under subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act shall continue to be governed by the provisions of such subtitle.

(c) AMENDMENT TO MCKINNEY ACT.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle H—Miscellaneous Provisions

"SEC. 490. ADMINISTRATIVE PROVISIONS.

"The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

SEC. 830B. RURAL HOMELESSNESS GRANT PROGRAM

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

(1) assisting programs providing direct emergency assistance to homeless individuals and families;

(2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and

(3) assisting individuals and families in obtaining access to permanent housing and supportive services.

(b) USE OF FUNDS.—

(1) IN GENERAL.—An eligible organization may use a grant awarded under subsection (a) to provide in rural areas—

(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

(D) transitional housing;

(E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

(F) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—

(i) outreach services to reach eligible recipients;

(ii) case management;

(iii) housing counseling;

(iv) budgeting;

(v) job training and placement;

(vi) primary health care;

(vii) mental health services;

(viii) substance abuse treatment;

(ix) child care;

(x) transportation;

(xi) emergency food and clothing;

(xii) family violence services;

(xiii) education services;

(xiv) moving services;

(xv) entitlement assistance; and

(xvi) referrals to veterans services and legal services; and

(G) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under title V of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.) and the Single Family Property Disposition Program established under section 204(g) of the National Housing Act (12 U.S.C. 1710(g)).

(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds appropriated under subsection (i)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

(c) AWARD OF GRANTS.—

(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 20,000.—

(A) SET ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (i)(1) for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

(B) PRIORITY WITHIN SET ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411 et seq.).

(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds appropriated under subsection (i)(1), for the fiscal year.

(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. At a minimum the application shall include—

(1) a description of the target population and geographic area to be served;

(2) a description of the services to be provided;

(3) an assurance that the services to be provided are closely related to the identified needs of the target population;

(4) a description of the existing services available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing services or provide services not available in the immediate area; and

(5) an agreement by the organization that the organization will collect certain data on the projects conducted by the organization, including services provided, number and characteristics of persons served, causes of homelessness for persons served, and outcomes of delivered services.

(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities, Indian tribes (as defined in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)), and county and local governments.

(f) FEDERAL SHARE.—

(1) FEDERAL SHARE.—The Federal share of the costs of providing assistance under this title shall be 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

(g) EVALUATION.—

(1) EVALUATION.—The Secretary shall perform an evaluation of the program to—

(A) determine the effectiveness of the program in improving the delivery of services to homeless persons in the area served; and

(B) determine the types of services needed to address homelessness in rural areas.

(2) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program described in paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

(h) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal year 1993, and fiscal year 1994.

(2) AVAILABILITY.—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.

(j) DEFINITIONS.—

As used in this section:

(1) HOMELESS.—The term "homeless" has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

(2) PROGRAM.—The term "program" means the rural homelessness grant program established under this section.

(3) RURAL AREA; RURAL COMMUNITY.—The term "rural area" or "rural community" means an area or community, respectively, as defined in section 520 of the Housing Act of 1949.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

Subtitle D—Housing Opportunities for Persons With AIDS

SEC. 831. AUTHORIZATION.

Section 863 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12912) is amended to read as follows:

"SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $100,000,000 for fiscal year 1993, and $103,200,000 for fiscal year 1994.".

SEC. 832. PROGRAM AMENDMENTS.

Section 854 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12903) is amended—

(1) in subsection (c)(1), by inserting before the period at the end of the first sentence "as determined by the Centers for Disease Control"; and

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

"(e) RECIPIENT OF FUNDS.—Each metropolitan area applying for a grant under this section shall designate its chief elected official for receipt and use of amounts received from a grant under this section.".

SEC. 833. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.

Not later than 30 days after the date of enactment of this Act, the Secretary of the Department of Housing and Urban Development shall publish final regulations as may be necessary to implement the Housing Opportunities for Persons with AIDS program authorized in subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.).

SEC. 834. EMERGENCY SHELTER GRANTS AMENDMENTS.

(a) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) at the end of paragraph (1), by striking the period and inserting a semicolon;

(2) at the end of paragraph (3), by striking "and";

(3) in paragraph (4)—

(A) by inserting "it will" after "State," and

(B) by striking "and" at the end;

(4) in paragraph (5)—

(A) before "develop", by inserting "it will"; and

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

(5) by redesignating the paragraph that follows paragraph (5) as paragraph (6) and by striking the period at the end and inserting "; and"; and

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

"(7) it will employ and otherwise involve, to the maximum extent practicable, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.".

(b) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding at the end the following new subsection:

"(d) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other activities of the recipient assisted under this subtitle, or to otherwise provide for the consultation and participation of such individual or individuals in considering and making such policies and decisions.".

(c) TERMINATION OF ASSISTANCE.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding after subsection (d) (as added by subsection (b) of this section) the following new subsection:

"(e) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected.".

(d) ELIGIBILITY OF STAFF COSTS.—Section 414(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(3)) is amended by striking "(other than staff)".

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 901. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second sentence and inserting the following: "For purposes of assistance under section 106, there are authorized to be appropriated $3,900,000,000 for fiscal year 1993 and $4,024,800,000 for fiscal year 1994. Of any amounts appropriated under this section, the Secretary shall, to the extent approved in appropriation Acts, make available—

"(1) not less than $3,000,000 in each of fiscal years 1993 and 1994 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management,

"(2) not less than $6,500,000 for fiscal year 1993 and $6,500,000 for fiscal year 1994 in the form of grants to historically black colleges, and

"(3) not less than $7,000,000 for fiscal year 1993 and $7,000,000 for fiscal year 1994 for grants in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

(b) SECTION 108 LOAN GUARANTEES.—The fifth sentence of section 108(a) (42 U.S.C. 5308(a)) of the Housing and Community Development Act of 1974 is amended by striking all that follows "amount of" through the end of the sentence and inserting "$300,000,000 during fiscal year 1993 and $300,000,000 during fiscal year 1994.".

SEC. 902. HOMEOWNERSHIP ASSISTANCE UNDER CDBG.

Section 907(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5305 note) is amended by striking paragraph (2).

SEC. 903. STATE SET-ASIDE FOR TECHNICAL ASSISTANCE.

Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (3) the following:

"(4) From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.".

SEC. 904. ELIMINATION OF NONHOUSING COMMUNITY DEVELOPMENT PLAN.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by striking subsection (l) as added by section 922 of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 905. LOANS OF CDBG FUNDS.

Section 105(a)(14) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(14)) is amended by inserting before "activities" the following: "provision of assistance including loans (both interim and long-term) and grants for".

SEC. 906. CDBG CODE ENFORCEMENT.

Section 105(a)(3) of the Housing and Community Development Act of 1974 is amended by striking "improvements and" and inserting "or private improvements or".

SEC. 907. CDBG SET-ASIDE FOR COLONIAS.

Section 916 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(3) OTHER IMPROVEMENTS.—Other activities eligible under section 105 of the Housing and Community Development Act of 1974 designed to meet the needs of residents of colonias."; and

(2) in subsection (f), by striking "and 1993" and inserting "1993, and 1994".

SEC. 908. APPROVAL OF MULTIJURISDICTIONAL AGREEMENTS.

Section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)) is amended by inserting after "the Secretary", the first place it appears, the following: "or the State, in the case of nonentitlement areas".

SEC. 909. NEIGHBORHOOD-BASED NONPROFIT ORGANIZATIONS.

Section 105(a)(15) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(15)) is amended by inserting after "corporations," the following: "nonprofit organizations serving the development needs of the communities in nonentitlement areas,".

SEC. 910. ECONOMIC DEVELOPMENT.

(a) CAPACITY BUILDING.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) at the end of paragraph (19), by striking "and";

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

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

"(21) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or community economic development, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13).".

(b) REBUILDING DISTRESSED NEIGHBORHOODS.—Section 105(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)) is amended by adding at the end the following new paragraph:

"(4) For the purposes of subsection (c)(1)(C)—

"(A) if an employee resides in, or the assisted activity through which he is employed is located in, a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

"(B) if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 50 percent of the area median, the employee shall be presumed to be a person of low or moderate income.".

(c) ASSISTANCE TO FOR-PROFIT ENTITIES.—Section 105 of Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by inserting at the end the following new subsection:

"(d) In any case in which an activity described in paragraph (17) of subsection (a) is provided assistance—

"(1) such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance; and

"(2) the Secretary shall ensure that grantees have in place an effective mechanism to make determinations that an assisted activity is financially viable and that the amount of assistance is appropriate relative to the amount of public benefit expected to be derived.".

(d) SMALL AND MICRO-BUSINESS DEVELOPMENT INITIATIVE.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by subsection (c), is further amended by adding at the end the following new subsection:

"(e)(1) In providing assistance pursuant to paragraph (17) of subsection (a) to a small or micro-business, the Secretary shall—

"(A) minimize the paperwork and regulatory burden associated with implementation and monitoring activities;

"(B) apply flexibly those requirements that assistance provided to for-profit entities be appropriate to take into account the special needs

and limitations arising from the size of the entity; and

"(C) not consider training, technical assistance, or other support services costs provided to small or micro-businesses or to grantees and subgrantees to develop the capacity to provide such assistance, pursuant to section 105(a)(12) or an administrative cost pursuant to section 105(a)(13).

"(2) Not later than 18 months after the date of enactment of this subsection, the Secretary shall submit to the Congress a report on the effectiveness of assistance provided through title I of the Housing and Community Development Act of 1974 in promoting development of micro-business, including a review of any statutory or regulatory provision that impedes the development of micro-business.".

(e) DEFINITIONS.—Section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302) is amended by adding at the end the following new paragraphs:

"(22) The term 'small business' means a business that meets the criteria set forth in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"(23) The term 'micro-business' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the business.".

(f) DEVELOPMENT DIRECTIVE.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by this section, is further amended by adding at the end the following new subsection:

"(f) TRAINING PROGRAM.—The Secretary shall implement, using funds recaptured pursuant to section 119(o), an on-going program for Department personnel who are responsible for monitoring and administering activities pursuant to subsection (a)(17) for the purpose of ensuring that (1) personnel possess a thorough understanding of such activities; and (2) regulations and guidelines are implemented in a consistent fashion.".

(g) ENHANCING JOB QUALITY.—Title I of the Housing and Community Development Act of 1974 is amended by adding the following new section:

"SEC. 122. JOB QUALITY REPORT.

"Not later than 1 year after the date of enactment of this section, the Comptroller General shall submit to the Congress a report on the types and quality of jobs created or retained through assistance provided pursuant to title I of the Housing and Community Development Act of 1974 and the extent to which projects and activities assisted under that title enhance the upward mobility and future earning capacity of low- and moderate-income persons who are benefitted by such projects and activities.".

SEC. 911. NEIGHBORHOOD DEVELOPMENT PROGRAM.

(a) AUTHORIZATION.—Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) AUTHORIZATION.—Of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $2,500,000 for fiscal year 1993 and $3,000,000 for fiscal year 1994 shall be available to carry out this section.".

(b) PROGRAM REFINEMENTS.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking:

"NEIGHBORHOOD DEVELOPMENT DEMONSTRATION",

and inserting the following:

"JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM";

(2) in subsection (b)(1), by striking "a demonstration program to determine the feasibility of supporting" and inserting "a program to support";

(3) in subsection (b)(2)—

(A) by striking "demonstration" in the first sentence; and

(B) by striking "30" and inserting "50" in the second sentence; and

(4) in subsection (e)(3), by inserting after "year" the following: ", except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization.";

(5) in subsection (e)(6)—

(A) by striking subparagraphs (B) and (D);

(B) by redesignating subparagraphs (C) and (E) as subparagraphs (B) and (C), respectively;

(C) by inserting "and" at the end of subparagraph (B), as redesignated; and

(D) by redesignating the remaining subparagraphs accordingly.

(6) in subsection (f), by striking all after "Congress" and inserting "not later than 3 months after the end of each fiscal year in which payments are made under this section, a report containing a summary of the activities carried out under this section during such fiscal year and any suggested legislative refinements necessary for continued program success.".

SEC. 912. NEIGHBORHOOD REINVESTMENT CORPORATION ACT.

Section 608(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended—

(1) by striking the first sentence of paragraph (1) and inserting the following: "There are authorized to be appropriated to the corporation to carry out this title $40,000,000 for fiscal year 1993 and $41,280,000 for fiscal year 1994."; and

(2) in paragraph (2), by striking "1991 and 1992" and inserting "1993 and 1994".

SEC. 913. CDBG PUBLIC SERVICES CAP.

Notwithstanding any other provision of law, the city and county of Los Angeles may use not more than 35 percent of their allocations under title I of the Housing and Community Development Act of 1974 for public services eligible under section 105(a)(8) of such Act for each of the fiscal years 1993 through 1997.

SEC. 914. ACTIVITIES TO AFFIRMATIVELY FURTHER FAIR HOUSING.

(a) Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

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

"(21) activities that affirmatively further fair housing.".

(b) Sections 104(b)(2), 106(d)(5)(B), and 107(e)(1) of the Housing and Community Development Act of 1974 are each amended by striking "Public Law 90-284" and inserting "the Fair Housing Act".

SEC. 915. ELIGIBILITY OF FEDERAL OR STATE ENTERPRISE ZONES UNDER THE CDBG PROGRAM.

Section 105(a)(13) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "(13)" the following: "payment of reasonable administrative costs related to establishing and administering federally approved and equivalent State-approved enterprise zones and".

Subtitle B—Regulatory Programs

SEC. 921. NATIONAL COMMISSIONS.

(a) MANUFACTURED HOUSING COMMISSION.—(1) AUTHORIZATION.—Section 943(f) of the Cranston-Gonzalez National Affordable Housing Act is amended by inserting before the period "to remain available until expended".

(2) FUNCTIONS OF THE COMMISSION.—Section 943(d)(1) of the Cranston-Gonzalez National Affordable Housing Act is amended—

(A) in subparagraph (G), by striking "and" at the end;

(B) by adding after subparagraph (G) the following new subparagraph:

"(H) evaluate the extent to which manufacturers in compliance with Federal standards do and should comply with State implied or expressed warranty requirements; and"; and

(C) by redesignating subparagraph (H) as subparagraph (I).

(b) NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE AND NATIVE HAWAIIAN HOUSING.—

(1) EXTENSION.—Section 602(g) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1437aa note) is amended by striking "18 months" and inserting "30 months".

(2) AUTHORIZATION.—Section 605 is amended by striking the period at the end of the first sentence and inserting ", and $500,000 for fiscal years 1992 and 1993".

(c) NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING.—

(1) SUNSET.—Section 507 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1715z-1a note) is amended by striking "18" and inserting "24".

(2) AUTHORIZATION.—Section 506 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1715z-1a note) is amended by inserting after the first sentence the following new sentence: "There are authorized to be appropriated to carry out this title an amount not to exceed $250,000 for fiscal year 1993.".

SEC. 922. MANUFACTURED HOUSING.

Section 604 of the Housing and Community Development Act of 1974 (42 U.S.C. 5403) is amended by adding at the end the following new subsection:

"(j) The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to subsection (f). The Secretary shall consult with the National Manufactured Home Advisory Council in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from the date of enactment of this subsection, the Secretary shall update the standards for hardboard siding."

Subtitle C—Miscellaneous Programs

SEC. 931. HUD RESEARCH AND DEVELOPMENT.

The second sentence of section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1) is amended to read as follows: "There are authorized to be appropriated to carry out this title $27,300,000 for fiscal year 1993 and $28,173,600 for fiscal year 1994.".

SEC. 932. FAIR HOUSING INITIATIVES PROGRAM.

(a) FINDINGS.—The Congress finds that—

(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation's understanding of discrimination in the housing markets;

(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988, to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act to provide in-

creased information on the mortgage lending patterns of financial institutions;

(4) in the Americans with Disabilities Act of 1990, the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets;

(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents;

(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987;

(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

(9) the proven efficacy of private nonprofit fair housing enforcement organizations and communi'y-based efforts makes support for these organizations a necessary component of the fair housing enforcement system.

(b) IN GENERAL.—Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended—

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by inserting after subsection (a) the following new subsections:

"(b) PRIVATE ENFORCEMENT INITIATIVES.—

"(1) IN GENERAL.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968, and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

"(2) ACTIVITIES.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

"(A) carry out testing and other investigative activities in accordance with subsection (b)(1), including building the capacity for housing investigative activities in unserved or underserved areas;

"(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial assistance sales and rentals of housing and housing advertising;

"(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968;

"(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

"(E) provide funds for the costs and expenses of litigation, including expert witness fees.

"(c) FUNDING OF FAIR HOUSING ORGANIZATIONS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968, as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

"(2) CAPACITY ENHANCEMENT.—The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

"(d) EDUCATION AND OUTREACH.—

"(1) IN GENERAL.—The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

"(A) public service announcements, both audio and video;

"(B) television, radio and print advertisements;

"(C) posters; and

"(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

"(2) REGIONAL AND LOCAL PROGRAMS.—The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels.

"(3) COMMUNITY-BASED PROGRAMS.—The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.";

(3) in subsection (g), as redesignated by paragraph (1) by striking all in the first sentence after "section," and inserting the following: "$21,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994, of which—

"(1) not more than $7,500,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

"(2) not more than $4,500,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

"(3) not more than $4,000,000 for fiscal year 1993 and $4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

"(4) not more than $5,000,000 for fiscal year 1993 and $5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3)."; and

(4) by striking subsection (h), as redesignated by paragraph (1), and inserting the following:

"(h) QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION.—(1) The term 'qualified fair housing enforcement organization' means any organization that—

"(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

"(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

"(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

"(2) The term 'fair housing enforcement organization' means any organization that—

"(A) meets the requirements specified in paragraph (1)(A);

"(B) is currently engaged in the activities specified in paragraph (1)(B);

"(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

"(D) for purposes of funding under subsection (b), has at least 1 year of experience in the activities specified in paragraph (1)(B).

"(i) PROHIBITION ON USE OF FUNDS.—None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

"(j) REPORTING REQUIREMENTS.—Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

"(1) a description of the progress made in accomplishing the objectives of this section;

"(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

"(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

"(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

"(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.".

SEC. 933. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended to read as follows:

"SEC. 3. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

"(a) FINDINGS.—The Congress finds that—

"(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

"(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

"(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

"(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

"(b) POLICY.—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

"(c) EMPLOYMENT.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To residents of the housing developments for which the assistance is expended.

"(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

"(iii) To participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

"(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(d) CONTRACTING.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

"(ii) To business concerns that provide economic opportunities for residents of other housing developments operated by the public and Indian housing agency that is providing the assistance.

"(iii) To Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

"(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms 'low-income persons' and 'very low-income persons' have the same meanings given the terms 'low-income families' and 'very low-income families', respectively, in section 3(b)(2) of the United States Housing Act of 1937.

"(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term 'a business concern that provides economic opportunities' means a business concern that—

"(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

"(B) employs a substantial number of such persons; or

"(C) meets such other criteria as the Secretary may establish.

"(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

"(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of 1992, the Secretary shall promulgate regulations to implement this section.".

SEC. 934. STUDY OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than 1 year after the date of enactment of this Act, a report describing—

(1) the Secretary's efforts to enforce section 3 of the Housing and Urban Development Act of 1968;

(2) external factors affecting implementation of section 3; and

(3) recommendations for legislative changes to enhance the effectiveness of section 3.

(b) CONTENTS.—The discussion under subsection (a)(2) shall include, at a minimum, a discussion of—

(1) any lack of necessary training for targeted employees and technical assistance to targeted businesses;

(2) any barriers created by Federal, State, or local procurement regulations or other laws;

(3) any difficulties in coordination with labor unions;

(4) any difficulties in coordination with other implicated Federal agencies; and

(5) any lack of resources on the part of recipients of assistance who were charged with carrying out the mandate of section 3.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary shall consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, the Administrator of the Small Business Administration, other appropriate Federal officials, and recipients of Federal housing and community development assistance who are charged with executing the mandate of section 3.

SEC. 935. STUDY ON THE HOUSING IMPACT OF MILITARY BASE EXPANSION.

(a) STUDY.—The Secretary shall conduct a study on the availability of housing in areas designated for military expansion or redeployment in cases where the expected civilian and nonbase military resident influx exceeds 2,000 people in a given 2-year span. The study shall examine the ability of the public and private sector to meet the housing demand in the community and the impact of increased demand on housing availability and affordability for both homeowners and renters.

(b) REPORT.—The Secretary shall transmit a report on the results of the study conducted pursuant to subsection (a) 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 1 year after the date of enactment of this Act.

SEC. 936. NEHEMIAH HOUSING OPPORTUNITY GRANTS.

(a) IN GENERAL.—Section 604 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) in subsection (b)(4), by inserting before the period ", subject to the provisions of subsection (c)"; and

(2) by inserting after subsection (b) the following new subsection:

"(c) HOMEOWNER INCENTIVE.—The nonprofit organization may provide, upon the sale or transfer of the property, that any net proceeds remaining after the first mortgage shall be distributed in the following order:

"(1) The amount of the downpayment made by the seller or the transferor when the property was purchased shall be paid to the seller or transferor.

"(2) Additional amounts shall be shared equally between the Secretary and the seller or transferor until the Secretary has recovered the amount of the loan under this section.

"(3) To the extent the net proceeds from the sale or transfer are insufficient to repay the Secretary for the full amount of the loan made under this section, the second mortgage held by the Secretary shall remain on the property until the loan is paid in full when the purchaser or transferee sells or otherwise transfers the property.".

(b) CONFORMING AMENDMENTS.—Section 606(e)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) by inserting after "involved," the following: "subject to the provisions of section 604(c)"; and

(2) by inserting "of such loan" before "(in".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for any loan made to a family after July 1, 1990.

SEC. 937. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) Federal mandates such as those contained in the Americans with Disabilities Act of 1990, the Clean Air Act, the Federal Water Pollution Control Act and the Solid Waste Disposal Act often involve substantial costs to implement;

(2) the States and localities required to carry out these mandates are experiencing significant fiscal distress because of economic recession and cutbacks in Federal aid for a variety of domestic programs; and

(3) the Congress should provide explicit guidance on how these mandates can be met through existing resources or should appropriate additional funds to assist the States and localities to comply with such Federal mandates.

SEC. 938. IMPROVED COORDINATION OF URBAN POLICY.

Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501 et seq.) is amended—

(1) in section 702(d), by striking paragraph (8) and inserting the following:

"(8) increase coordination among Federal programs that seek to promote job opportunities and skills, decent and affordable housing, public safety, access to health care, educational opportunities, and fiscal soundness for urban communities and their residents.";

(2) in section 703(a)—

(A) by striking "during February 1978, and during February of every even-numbered year thereafter," and inserting ", not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter,"; and

(B) in paragraph (8), by striking "such" and all that follows through the end of the sentence and inserting "legislative or administrative proposals—

"(A) to promote coordination among Federal programs to assist urban areas;

"(B) to enhance the fiscal capacity of fiscally distressed urban areas;

"(C) to promote job opportunities in economically distressed urban areas and to enhance the job skills of residents of such areas;

"(D) to generate decent and affordable housing;

"(E) to reduce racial tensions and to combat racial and ethnic violence in urban areas;

"(F) to combat urban drug abuse and drug-related crime and violence;

"(G) to promote the delivery of health care to low-income communities in urban areas;

"(H) to expand educational opportunities in urban areas; and

"(I) to achieve the goals of the national urban policy."; and

(3) by adding at the end of section 703 the following new subsection:

"(d) REFERRAL.—The National Urban Policy Report shall, when transmitted to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.".

SEC. 939. COMMUNITY OUTREACH ACT.

(a) SHORT TITLE.—This section may be cited as the "Community Outreach Partnership Act of 1992".

(b) PURPOSE.—The Secretary shall carry out, in accordance with this section, a 5-year demonstration program to determine the feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and the exchange of information.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out research and outreach activities addressing the problems of urban areas.

(2) USE OF GRANTS.—Grants under this Act shall be used to establish and operate Community Outreach Partnership Centers (hereafter in this section referred to as "Centers") which shall—

(A) conduct competent and qualified research and investigations on theoretical or practical problems in large and small cities; and

(B) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

(3) SPECIFIC PROBLEMS.—Research and outreach activities assisted under this Act shall focus on problems associated with housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary.

(d) APPLICATION.—Any public or private nonprofit institution of higher education may submit an application for a grant under this section in such form and containing such information as the Secretary may require by regulation.

(e) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(A) The demonstrated research and outreach resources available to the applicant for carrying out the purposes of this section.

(B) The capability of the applicant to provide leadership in solving community problems and in making national contributions to solving long-term and immediate urban problems.

(C) The demonstrated commitment of the applicant to supporting urban research and outreach programs by providing matching contributions for any Federal assistance received.

(D) The demonstrated ability of the applicant to disseminate results of research and successful strategies developed through outreach activities to other Centers and communities served through the demonstration program.

(E) The projects and activities that the applicant proposes to carry out under the grant.

(F) The effectiveness of the applicant's strategy to provide outreach activities to communities.

(G) The extent of need in the communities to be served by the Centers.

(H) Other criteria deemed appropriate by the Secretary.

(2) PREFERENCE.—The Secretary shall give preference to institutions of higher education that undertake research by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban problems.

(f) FEDERAL SHARES.—The Federal share of a grant under this section shall not be more than—

(1) 50 percent of the cost of establishing and operating a Center's research activities; and

(2) 75 percent of the cost of establishing and operating a Center's outreach activities.

(g) NON-FEDERAL SHARES.—The non-Federal share of a grant may include cash, or the value of non-cash contributions, equipment, or other in-kind contributions deemed appropriate by the Secretary.

(h) RESPONSIBILITIES.—A Center established under this section shall—

(1) employ the research and outreach resources of its sponsoring institution of higher education to solve specific urban problems identified by communities served by the Center;

(2) establish outreach activities in areas identified in the grant application as the communities to be served;

(3) establish a community advisory committee comprised of representatives of local institutions and residents of the communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(4) coordinate outreach activities in communities to be served by the Center;

(5) facilitate public service projects in the communities served by the Center;

(6) act as a clearinghouse for the dissemination of information;

(7) develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(8) exchange information with other Centers.

(i) NATIONAL ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary shall establish a national advisory council (hereafter in this section referred to as the "council") to—

(A) disseminate the results of research and outreach activities carried out under this section;

(B) act as a clearinghouse between grant recipients and other institutions of higher education; and

(C) review and evaluate programs carried out by grant recipients.

(2) MEMBERS.—The council shall be composed of 12 members to be appointed by the Secretary as follows—

(A) 3 representatives of State and local governments;

(B) 3 representatives of institutions of higher education that receive grants under this section; and

(C) 3 individuals or representatives of organizations that possess significant expertise in urban issues; and

(D) 3 representatives from community advisory committees created pursuant to this section.

(3) VACANCIES.—A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—Members of the council shall serve without pay.

(5) CHAIRMAN.—The council shall elect a member to serve as chairperson of the council.

(6) MEETINGS.—The council shall meet at least biannually and at such other times as the chairman may designate.

(i) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse to disseminate information resulting from the research and successful outreach activities developed through the Centers to grant recipients and other interested institutions of higher education.

(j) AUTHORIZATIONS.—

(1) COMMUNITY OUTREACH PARTNERSHIP CENTERS.—There are authorized to be appropriated to enable Centers to carry out research and outreach activities, $15,000,000 for fiscal year 1993 and $15,600,000 for fiscal year 1994.

(2) NATIONAL CLEARINGHOUSE.—There are authorized to be appropriated to establish and operate the national clearinghouse to be established under subsection (i), $500,000 for fiscal year 1993 and $520,000 for fiscal year 1994.

(k) REPORTING.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit an annual 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.

(2) CONTENTS.—The report under paragraph (1) shall contain a summary of the activities carried out under this section during the preceding fiscal year, and findings and conclusions drawn from such activities.

SEC. 940. REPORT ON COMMUNITY DEVELOPMENT LENDING.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the Chairman of the National Credit Union Administration, shall submit a report to the Congress comparing residential, small business, and commercial lending by insured depository institutions in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) compare the risks and returns of lending in low-income, minority, and distressed neighborhoods with the risks and returns of lending in other neighborhoods;

(2) analyze the reasons for any differences in risk and return between low-income, minority, and distressed neighborhoods and other neighborhoods; and

(3) if the risks of lending in low-income, minority, and distressed neighborhoods exceed the risks of lending in other neighborhoods, recommend ways of mitigating those risks.

SEC. 941. REPORT ON COMMUNITY DEVELOPMENT BANKING.

(a) IN GENERAL.—Not later than 6 months after the date of the enactment of this section, the Board of Governors of the Federal Reserve System and the Secretary of Housing and Urban Development shall jointly submit a report to the Congress on insured depository institutions that focus on revitalizing low-income, chronically distressed communities.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall discuss—

(1) the extent to which the institutions have contributed to revitalizing low-income, chronically distressed communities;

(2) any unusual risks to the Federal deposit insurance funds posed by the institutions' activities;

(3) the reasons for any success the institutions have had in revitalizing such communities;

(4) whether the institutions' successes can be replicated elsewhere; and

(5) action that the Federal Government may take to assist other insured depository institutions to revitalize such communities.

(c) DEMONSTRATION PROGRAM.—The report required by subsection (a) shall also propose a demonstration program involving Federal assistance to establish or expand the activities of insured depository institutions that focus their activities on revitalizing low-income, chronically distressed communities. Such a program shall—

(1) set forth specific recommendations for congressional and administrative action; and

(2) include appropriate safety-and-soundness protections.

SEC. 942. FLOOD CONTROL RESTORATION ZONE.

Section 1307 of the National Flood Insurance Act of 1968 is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Director of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Director for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

"(1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;

"(2) a minimum level of flood protection is still provided to the community by the disaccredited system; and

"(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Director of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction. The Director of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after the date of enactment of this subsection. ".

SEC. 943. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of new and existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed $8,000); and

(ii) $4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

(7) EXTENSION OF PROGRAM.—Not later than 2 years after the date of the implementation of the Energy Efficient Mortgage Pilot Program, the Secretary shall extend the pilot program nation-

wide, unless the Secretary can demonstrate to the Congress that such an extension would not be practicable.

(8) DEFINITIONS.—As used in this subsection—

(A) the term "energy efficient mortgage" means a mortgage on a residential property that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan;

(B) the term "cost-effective" means those energy efficiency improvements to an attached or unattached single family residence that will produce an immediate and quantifiable positive cash flow and will result in monthly energy savings greater than the resulting increase in the monthly loan payment when 100 percent of the cost of improvements is added to the base loan;

(C) the term "base loan" means any housing loan insured under title II of the National Housing Act that does not include the cost of cost-effective energy improvements; and

(D) the term "residential buildings" means any attached or unattached single family residence.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the demonstration program established under this section.

SEC. 944. PROHIBITION OF LUMP-SUM PAYMENTS.

The Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF LUMP-SUM PAYMENTS

"SEC. 14. In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

"(1) moving expenses;

"(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

"(3) any incidental expenses related to paragraph (1) or (2).".

SEC. 945. SMOKE DETECTORS.

Not later than 30 days after the date of enactment of this Act, the Secretary shall publish final regulations as may be necessary to require the installation of smoke detection devices in all residential dwelling units, the construction, rehabilitation, modernization, acquisition, or rental of which is financed or assisted under title II of the National Housing Act, under the United States Housing Act of 1937, under section 202 of the Housing Act of 1959, or under any other program specified by the Secretary. The promulgation of regulations under this subsection shall be in accordance with section 553 of title 5, United States Code.

SEC. 946. THE NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.

(a) PURPOSE.—The purposes of this section are—

(1) to empower the local community by investing in its human capital through a private-public partnership to rebuild urban and rural communities through schools and other community organizations, including public housing communities; and

(2) to ensure that by December 1997, the Cities in Schools Program, through the National Center for Partnership Development, will have developed the capacity to reach 500,000 at-risk youth and their families through community-wide programs that channel existing community resources to provide personal, coordinated and accountable support.

(b) GRANTS TO STRENGTHEN THE NATIONAL CITIES IN SCHOOLS PROGRAM.—The Secretary of Housing and Urban Development shall make grants to expand the National Cities in Schools Program and operations of the National Center for Partnership Development to—

(1) develop, establish, and support projects to strengthen local community dropout prevention programs in elementary and secondary schools;

(2) train community leaders responsible for the implementation of local community Cities in Schools dropout prevention programs; and

(3) disseminate to, and support replication by, States and communities of effective dropout prevention strategies.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1993 and 1994.

SEC. 947. ECONOMIC INDEPENDENCE.

(a) FINDINGS.—The Congress finds that—

(1) certain Federal laws have had the effect of discouraging many low-income families receiving Federal assistance from moving into economic independence;

(2) unemployed recipients of Federal assistance face numerous disincentives to gaining employment and accumulating assets;

(3) a transition period from unemployment to employment would serve to encourage unemployed recipients of Federal assistance to become economically independent;

(4) the Cranston-Gonzalez National Affordable Housing Act contains a provision which addressed this situation by limiting annual rent increases resulting from employment; and

(5) this provision limits rent increases to 10 percent per family per year for a 3-year period following the initial date of such employment.

(b) IMPLEMENTATION.—The Secretary of Housing and Urban Development should immediately implement section 957 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12714). Other Federal agencies authorized to assist low-income families should take similar steps to encourage economic independence and the accumulation of assets.

SEC. 948. STUDY OF INSURANCE AVAILABILITY IN CENTRAL CITIES AND DISTRESSED URBAN AREAS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report assessing the market availability of insurance against crime, civil disorders, and related perils for businesses and residences located in central cities and distressed urban areas and the impact of the availability of such insurance on the economic development or redevelopment of such areas.

(b) CONTENTS OF REPORT.—The report required by this section shall address—

(1) whether insurance against crime, civil disorders, and related perils is available at affordable rates in central cities and distressed urban areas either through the private insurance market or through a suitable program adopted under Federal or State law;

(2) whether reinsurance against crime, civil disorders, and related perils is available at affordable rates in central cities and other distressed urban areas either through the private reinsurance market or through a suitable program adopted under State law;

(3) the factors most likely to explain any deficiencies in the availability of such insurance or reinsurance;

(4) whether any deficiencies in the availability of such insurance or reinsurance act as a deterrent or barrier to the economic development or redevelopment of central cities and distressed urban areas;

(5) whether the Federal crime insurance program operated pursuant to title XII of the National Housing Act (12 U.S.C. 1749bbb et seq.) adequately promotes the availability of insurance in central cities and distressed urban areas and whether the program should be modified to more effectively advance that goal;

(6) whether those State plans to assure fair access to insurance (FAIR) that were established pursuant to section 1211 of the National Housing Act (12 U.S.C. 1749bbb–3), or other programs adopted by State governments effectively promote the availability of insurance in central cities and distressed urban areas;

(7) whether reenactment of a Federal riot reinsurance program to promote the availability of insurance against crime, civil disorders, and related perils would effectively promote the availability of insurance against such perils in central cities and distressed urban areas;

(8) whether other action by the Federal Government could promote the availability of insurance against crime, civil disorders, and related perils in central cities and distressed urban areas in order to enhance the prospects for the economic development or redevelopment of such areas; and

(9) such other issues related to the availability of insurance in central cities and other distressed urban areas and the relationship of the availability of such insurance to the economic development or redevelopment of such areas as the Comptroller General considers appropriate.

(c) DEFINITIONS.—As used in this section, the following definitions shall apply:

(1) AFFORDABLE RATES.—The term "affordable rates" shall be defined by the Comptroller General, taking into consideration factors such as the nature and degree of risks involved, the protective devices employed, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas, the economic importance of the various individual coverages, the type of property involved, and the relative abilities of the particular classes and types of insureds to pay the costs of coverages.

(2) CENTRAL CITY.—The term "central city" means any political subdivision designated as a central city from time to time by the Office of Management and Budget.

(3) DISTRESSED URBAN AREA.—The term "distressed urban area" means an urban enterprise zone designated pursuant to title VII of the Housing and Community Development Act of 1987 (42 U.S.C. 11501 et seq.) or any other urban area that has a high level of poverty, unemployment, or minority population share, as determined by the Comptroller General.

(d) REFERRAL.—The report required by this section shall be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.

SEC. 949. FLOOD ELEVATION REQUIREMENTS FOR ST. CHARLES PARISH, LOUISIANA.

The flood elevation requirements that were in effect pursuant to chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) for St. Charles Parish, Louisiana, in and around the areas surrounding Ormond Country Club Estates, prior to June 16, 1992, shall remain in effect until June 16, 1996, or until completion of the St. Charles Parish portion of the Lake Ponchartrain Hurricane Protection Levee, whichever is earlier.

SEC. 950. EXTENSION OF TIME TO APPEAL FLOOD ELEVATION DETERMINATIONS.

Section 1363(c) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(c)) is amended in the third sentence by striking "ninety" and inserting "180".

SEC. 951. ADMINISTRATIVE PROVISION.

Subject to the availability of appropriations for this purpose, the Secretary of Housing and

Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MS 94-PFL39456). The town of McLain, Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

SEC. 952. COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.

(a) SHORT TITLE.—This section may be cited as the "Community Investment Corporation Demonstration Act".

(b) COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.—

(1) FINDINGS.—The Congress finds that—

(A) the Nation's urban and rural communities face critical social and economic problems arising from lack of growth; growing numbers of low-income persons and persons living in poverty; lack of employment and other opportunities to improve the quality of life of these residents; and lack of capital for business located in, or seeking to locate in these communities;

(B) the future well-being of the United States and its residents depends on the restoration and maintenance of viable local economies, and will require increased public and private investment in low-income housing, business development, and economic and community development activities, and technical assistance to local organizations carrying out revitalization strategies;

(C) lack of expertise and technical capacity can significantly limit the ability of residents and local institutions to effectively carry out revitalization strategies;

(D) the Federal Government needs to develop new models for facilitating local revitalization activities;

(E) indigenous community-based financial institutions can play a significant role in identifying and responding to community needs; and

(F) financial institutions with a primary mission of promoting community development have proven their ability to promote revitalization and are appropriate vehicles for restoring economic stability and growth in distressed communities and neighborhoods.

(2) PURPOSES.—The demonstration program carried out under this section shall—

(A) improve access to capital for initiatives which benefit residents and businesses in targeted geographic areas; and

(B) test new models for bringing credit and investment capital to targeted geographic areas and low-income persons in such areas through the provision of assistance for capital development services, and technical assistance.

(3) DEFINITIONS.—As used in this section—

(A) the term "Federal financial supervisory agency" means—

(i) the Comptroller of the Currency with respect to national banks;

(ii) the Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(iii) the Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation;

(iv) the National Credit Union Administration Board with respect to insured credit union associations; and

(v) the Office of Thrift Supervision with respect to insured savings associations;

(B) the term "community investment corporation" means an eligible organization selected by the Secretary to receive assistance pursuant to this section;

(C) the term "development services" means activities that are consistent with the purposes of this section and which support and strengthen the lending and investment activities undertaken by eligible organizations including—

(i) the development of real estate;

(ii) administrative activities associated with the extension of credit or necessary to make an investment;

(iii) marketing and management assistance;

(iv) business planning and counseling services; and

(v) other capacity building activities which enable borrowers, prospective borrowers, or entities in which eligible organizations have invested, or expect to invest, to improve the likelihood of success of their activities;

(D) the term "eligible organization" means an entity—

(i) that is organized as—

(I) a bank holding company as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841); or

(II) a nonprofit organization—

(aa) that is organized under State law;

(bb) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(cc) complies with standards of financial accountability acceptable to the Secretary; and

(dd) controls or is affiliated with a nondepository lending institution or a regulated financial institution;

(ii) that has as its primary mission the revitalization of a targeted geographic area through the provision of credit, equity investment, and development services;

(iii) that maintains, through significant representation on its governing board and otherwise, accountability to community residents;

(iv) that—

(I) has conducted business for at least 3 years prior to the date of application for assistance;

(II) is organized for the purpose of applying for assistance, if a majority of its subsidiaries or affiliates has conducted business for at least 3 years prior to the date of application; or

(III) has principals active in the implementation of its programs who possess significant experience in lending and the development of affordable housing, small business development, or community revitalization;

(v) that directly or through a subsidiary or affiliate carries out development services; and

(vi) that will match any equity investment dollar-for-dollar with non-Federal sources of funds;

(E) the term "equity investment" means a capital contribution through the purchase of nonvoting common stock or through equity grants or contributions to capital reserves or surplus, subject to terms and conditions satisfactory to the Secretary;

(F) the term "low-income person" means a person in a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(G) the term "regulated financial institution" means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), or section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

(H) the term "Secretary" means the Secretary of Housing and Urban Development; and

(I) the term "targeted geographic area" means a geographically contiguous area of chronic economic distress as measured by unemployment, growth lag, poverty, lag in growth of per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible organization as an area to be served by it.

(4) SELECTION CRITERIA.—The Secretary shall select eligible organizations from among applications submitted to participate in a demonstration program, using selection criteria based on—

(A) the capacity of the eligible organizations to carry out the purposes of this section;

(B) the range and comprehensiveness of lending, investment strategies, and development services to be offered by the organizations directly or through subsidiaries and affiliates thereof;

(C) the types of activities to be pursued, including lending and development of small business, agriculture, industrial, commercial, or residential projects;

(D) the extent of need in the targeted geographic area to be served;

(E) the experience and background of the principals at each eligible organization responsible for carrying out the purposes of this section;

(F) the extent to which the eligible organization directly or through subsidiaries and affiliates has successfully implemented other revitalization activities;

(G) an appropriate distribution of eligible organizations among regions of the United States; and

(H) other criteria determined to be appropriate by the Secretary and consistent with the purposes of this section.

(5) PROGRAM ASSISTANCE.—The Secretary shall—

(A) carry out, in accordance with this section, a program to improve access to capital and demonstrate the feasibility of facilitating the revitalization of targeted geographic areas by providing assistance to eligible organizations;

(B) accept applications from eligible organizations; and

(C) select eligible organizations to receive assistance pursuant to this section.

(6) ACTIVITIES REQUIRED.—All eligible organizations receiving assistance pursuant to this section are required to engage in activities that provide access to capital for development initiatives which benefit residents and businesses in targeted geographic areas.

(7) CAPITAL ASSISTANCE.—

(A) IN GENERAL.—The Secretary shall make grants to eligible organizations.

(B) ELIGIBLE ACTIVITIES.—Capital assistance may only be used to support the following activities that facilitate revitalization of targeted geographic areas or that provide economic opportunities for low-income persons—

(i) increasing the capital available for the purpose of making loans;

(ii) providing funds for direct investments in projects; and

(iii) providing a portion of loan loss reserves of regulated financial institutions.

(C) DISTRIBUTION.—

(i) IN GENERAL.—An eligible organization may distribute all or a portion of the capital assistance received under this subsection to its insured depository or nondepository subsidiaries or affiliates.

(ii) CAPITAL STANDARDS APPLY.—If assistance is distributed to a regulated financial institution, the depository and its holding company shall satisfy applicable capital standards from sources other than assistance provided under this section.

(D) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $25,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994 to be used to capitalize eligible organizations. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(8) DEVELOPMENT SERVICES AND TECHNICAL ASSISTANCE GRANTS.—

(A) IN GENERAL.—The Secretary shall—

(i) provide, or contract to provide, technical assistance to eligible organizations to assist in

establishing program activities of such organizations that are consistent with the purposes of this section; and

(ii) provide grants to eligible organizations for the provision of development services that support and contribute to the success of the mission of such organizations.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph, $15,000,000 for fiscal year 1993 and $15,600,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(9) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible organizations and their staffs in developing the capacity to carry out the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $2,000,000 for fiscal year 1993 and $2,100,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended.

(10) REPORTS.—The Secretary shall determine the appropriate reporting requirements with which recipients of assistance under this section must comply.

(11) ADVISORY BOARD.—

(A) IN GENERAL.—In establishing requirements to carry out the provisions of this section, and in considering applications under this section, the Secretary shall consult with an advisory board made up of the following members:

(i) the Administrator of the Small Business Administration;

(ii) two representatives from among the Federal financial supervisory agencies who possess expertise in matters related to extending credit to persons in low-income communities;

(iii) two representatives of organizations that possess expertise in development of low-income housing;

(iv) two representatives of organizations that possess expertise in economic development;

(v) two representatives of organizations that possess expertise in small business development;

(vi) two representatives from organizations that possess expertise in the needs of low-income communities; and

(vii) two representatives from community investment corporations receiving assistance under this section.

(B) CHAIRPERSON.—The Board shall elect from among its members a chairperson who shall serve for a term of 2 years.

(C) TERMS.—The members shall serve for terms of 3 years which shall expire on a staggered basis.

(D) REIMBURSEMENT.—The members shall serve without additional compensation but shall be reimbursed for travel, per diem, and other necessary expenses incurred in the performance of their duties as members of the advisory board, in accordance with sections 5702 and 5703 of title 5, United States Code.

(E) DESIGNATED REPRESENTATIVES.—A member who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving in the same agency or organization as the absent director.

(F) QUORUM.—The presence of a majority of members, or their representatives, shall constitute a quorum.

(12) EVALUATION AND REPORT.—The Secretary 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 an annual report containing a summary of the activities carried out under this section during the fiscal year and any preliminary findings or conclusions drawn from the demonstration program.

(13) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection.

(14) SAFETY AND SOUNDNESS OF INSURED DEPOSITORIES.—Nothing in this section shall limit the applicability of other law relating to the safe and sound operation and management of the regulated financial institutions receiving assistance provided under this section.

TITLE X—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

SEC. 1001. SHORT TITLE.

This title may be cited as the "Residential Lead-Based Paint Hazard Reduction Act of 1992".

SEC. 1002. FINDINGS.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

SEC. 1003. PURPOSES.

The purposes of this Act are—

(1) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible;

(2) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock;

(3) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care;

(4) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(5) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards;

(6) to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and

(7) to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

SEC. 1004. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) ABATEMENT.—The term "abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) all preparation, cleanup, worker protection, disposal, and postabatement clearance testing activities associated with such measures.

(2) ACCESSIBLE SURFACE.—The term "accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) CERTIFIED CONTRACTOR.—The term "certified contractor" means—

(A) a contractor, inspector, or supervisor who has completed a training program certified by the appropriate Federal agency and has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the Federal certification program; and

(B) workers or designers who have fully met training requirements established by the appropriate Federal agency.

(4) CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.—The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(5) DETERIORATED PAINT.—The term "deteriorated paint" means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

(6) EVALUATION.—The term "evaluation" means risk assessment, inspection, or risk assessment and inspection.

(7) FEDERALLY ASSISTED HOUSING.—The term "federally assisted housing" means residential dwellings receiving project-based assistance under programs including—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 1 of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) sections 502(a), 504, 514, 515, 516 and 533 of the Housing Act of 1949.

(8) FEDERALLY OWNED HOUSING.—The term "federally owned housing" means residential dwellings owned or managed by a Federal agen-

cy, or for which a Federal agency is a trustee or conservator. For the purpose of this paragraph, the term "Federal agency" includes the Department of Housing and Urban Development, the Farmers Home Administration, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Department of Transportation, and any other Federal agency.

(9) FEDERALLY SUPPORTED WORK.—The term "federally supported work" means any lead hazard evaluation or reduction activities conducted in federally owned or assisted housing or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) FRICTION SURFACE.—The term "friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) IMPACT SURFACE.—The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) INSPECTION.—The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act and the provision of a report explaining the results of the investigation.

(13) INTERIM CONTROLS.—The term "interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(14) LEAD-BASED PAINT.—The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established by the Secretary of Housing and Urban Development pursuant to this Act.

(15) LEAD-BASED PAINT HAZARD.—The term "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

(16) LEAD-CONTAMINATED DUST.—The term "lead-contaminated dust" means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women or young children.

(17) LEAD-CONTAMINATED SOIL.—The term "lead contaminated soil" means bare soil on residential real property that contains lead at or in excess of the level determined to be hazardous to human health by the appropriate Federal agency.

(18) MORTGAGE LOAN.—The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(19) ORIGINATING MORTGAGE INSTITUTION.—The term "originating mortgage institution" means a lender that provides mortgage loans.

(20) PRIORITY HOUSING.—The term "priority housing" means target housing that qualifies as affordable housing under section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745), including housing that receives assistance under subsection (b) or (o) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b) or (o)).

(21) PUBLIC HOUSING.—The term "public housing" has the same meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(22) REDUCTION.—The term "reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(23) RESIDENTIAL DWELLING.—The term "residential dwelling" means—

(A) a single-family dwelling, including attached structures such as porches and stoops; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) RESIDENTIAL REAL PROPERTY.—The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) RISK ASSESSMENT.—The term "risk assessment" means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

(B) visual inspection;

(C) limited wipe sampling or other environmental sampling techniques;

(D) other activity as may be appropriate; and

(E) provision of a report explaining the results of the investigation.

(26) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(27) TARGET HOUSING.—The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary, at the Secretary's discretion, may designate an earlier date.

Subtitle A—Lead-Based Paint Hazard Reduction

SEC. 1011. GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION IN TARGET HOUSING.

(a) GENERAL AUTHORITY.—The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in priority housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section.

(b) ELIGIBLE APPLICANTS.—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) FORM OF APPLICATIONS.—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of financial assistance to owners and occupants of priority housing that will be provided through grants under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in priority housing;

(2) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(3) the ability of the applicant to leverage State, local, and private funds to supplement the grant under this section;

(4) the ability of the applicant to carry out the proposed activities; and

(5) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) ELIGIBLE ACTIVITIES.—A grant under this section may be used to—

(1) perform risk assessments and inspections in priority housing;

(2) provide for the interim control of lead-based paint hazards in priority housing;

(3) provide for the abatement of lead-based paint hazards in priority housing;

(4) provide for the additional cost of reducing lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that risk assessments, inspections, and abatements are carried out by certified contractors in accordance with section 1021 of this Act;

(6) monitor the blood-lead levels of workers involved in lead hazard reduction activities funded under this section;

(7) assist in the temporary relocation of families forced to vacate priority housing while lead hazard reduction measures are being conducted;

(8) educate the public on the nature and causes of lead poisoning and measures to reduce exposure to lead, including exposure due to residential lead-based paint hazards;

(9) test soil, interior surface dust, and the blood-lead levels of children under the age of 6 residing in priority housing after lead-based paint hazard reduction activity has been conducted, to assure that such activity does not cause excessive exposures to lead; and

(10) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) FORMS OF ASSISTANCE.—The applicant may provide the services described in this section through a variety of programs, including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance approved by the Secretary.

(g) TECHNICAL ASSISTANCE AND CAPACITY BUILDING.—

(1) IN GENERAL.—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act and to carry out activities under this section. In fiscal years 1993 and 1994, the Secretary may make grants of up to $200,000 for the purpose of establishing State training, certification or licensing programs that meet minimum national criteria.

(2) SET-ASIDE.—Of the total amount approved in appropriation Acts under subsection (n), there shall be set aside to carry out this subsection $3,000,000 for fiscal year 1993 and $3,000,000 for fiscal year 1994.

(h) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the total grant amount under this section.

(i) PROHIBITION OF SUBSTITUTION OF FUNDS.—Grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(j) LIMITATION ON USE.—An applicant shall ensure that not more than 10 percent of the grant will be used for administrative expenses associated with the activities funded.

(k) FINANCIAL RECORDS.—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(l) REPORT.—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant expends grant funds under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of risk assessments and the number of inspections conducted in residential dwellings;

(3) states the number of residential dwellings in which lead-based paint hazards have been reduced through interim controls;

(4) states the number of residential dwellings in which lead-based paint hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(m) NOTICE OF FUNDING AVAILABILITY.—The Secretary shall publish a Notice of Funding Availability pursuant to this section not later than 120 days after funds are appropriated for this section.

(n) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this Act, there are authorized to be appropriated $250,000,000 for fiscal year 1993 and $250,000,000 for fiscal year 1994.

SEC. 1012. EVALUATION AND REDUCTION OF LEAD-BASED PAINT HAZARDS IN FEDERALLY ASSISTED HOUSING.

(a) GENERAL REQUIREMENTS.—Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended—

(1) by striking the title of the section and inserting:

"REQUIREMENTS FOR HOUSING RECEIVING FEDERAL ASSISTANCE";

(2) in the first sentence of subsection (a)—

(A) by striking "The Secretary" and inserting the following:

"(1) ELIMINATION OF HAZARDS.—The Secretary"; and

(B) by inserting before the period "or otherwise receives more than $5,000 in project-based assistance under a Federal housing program";

(3) by striking the second sentence of subsection (a) and inserting: "Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

"(A) the provision of lead hazard information pamphlets, developed pursuant to section 1031(c) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, to purchasers and tenants;

"(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

"(i) not less than 25 percent shall be performed by January 1, 1998;

"(ii) not less than 50 percent shall be performed by January 1, 2000; and

"(iii) the remainder shall be performed by January 1, 2002;

"(C) inspection for the presence of lead-based paint prior to federally funded renovation or rehabilitation that is likely to disturb painted surfaces;

"(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds;

"(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than $25,000 per unit in Federal funds;

"(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and

"(G) such other measures as the Secretary deems appropriate."; and

(4) in the third sentence, by striking "The Secretary may" and inserting the following:

"(2) ADDITIONAL MEASURES.—The Secretary may".

(b) MEASUREMENT CRITERIA.—Section 302(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(b)) is amended by striking "for the detection" and all that follows through the end of paragraph (2) and inserting "for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 1023 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(c) INSPECTION.—Section 302(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(c)) is amended—

(1) in the second sentence, by striking "qualified" and inserting "certified"; and

(2) in the third and fourth sentences, by inserting "or 0.5 percent by weight" after "squared".

(d) PUBLIC HOUSING.—Section 302(d)(1) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(1)) is amended—

(1) in the heading, by striking "CIAP" and inserting "MODERNIZATION"; and

(2) in the fourth sentence, by striking "to eliminate the lead-based paint poisoning hazards" and inserting "of lead-based paint and lead-based paint hazards".

(e) HOME INVESTMENT PARTNERSHIPS.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended by adding at the end the following new paragraph:

"(5) LEAD-BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the evaluation and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(f) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

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

"(21) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(g) SECTION 8 RENTAL ASSISTANCE.—Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(h) HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) in section 302(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

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

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

(2) in section 303(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by adding after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(i) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 422(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

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

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

(2) in section 423(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

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

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(j) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

(1) in section 442(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

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

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

(2) in section 443(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

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

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(k) FHA INSURANCE FOR SINGLE FAMILY HOMES.—

(1) HOME IMPROVEMENT LOANS.—Section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended in the fifth paragraph—

(A) by inserting after the first sentence the following: "Alterations, repairs, and improvements upon or in connection with existing structures may also include the evaluation and reduction of lead-based paint hazards."; and

(B) by adding at the end the following:

"(4) the terms 'evaluation', 'reduction', and 'lead-based paint hazard' have the same meanings given those terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(2) REHABILITATION LOANS.—Section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)) is amended by adding at the end the following: "The term 'rehabilitation' may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(l) FHA INSURANCE FOR MULTIFAMILY HOUSING.—Section 221(d)(4)(iv) of the National Housing Act (12 U.S.C. 1715l(d)(4)(iv)) is amended by inserting after "rehabilitation" the first time it appears the following: "(including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992)".

(m) RURAL HOUSING.—Section 501(a) of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following:

"(5) DEFINITIONS.—For purposes of this title, the terms 'repair', 'repairs', 'rehabilitate', and 'rehabilitation' include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

SEC. 1013. DISPOSITION OF FEDERALLY OWNED HOUSING.

Section 302(a) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(a)) (as amended by section 1012(a)) is amended by striking the fourth sentence and adding at the end the following:

"(3) DISPOSITION OF FEDERALLY OWNED HOUSING.—

"(A) PRE-1960 TARGET HOUSING.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

"(B) TARGET HOUSING CONSTRUCTED BETWEEN 1960 AND 1978.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

"(C) BUDGET AUTHORITY.—To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifications under section 504(e) of the Federal Credit Reform Act of 1990 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

"(D) DEFINITIONS.—For the purposes of this subsection, the terms 'inspection', 'abatement', 'lead-based paint hazard', 'federally owned housing', 'target housing', 'risk assessment', and 'certified contractor' have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'risk assessment', 'inspection', 'interim control', 'abatement', 'reduction', and 'lead-based paint hazard' have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

SEC. 1014. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY.

Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended—

(1) in subsection (b)(14), by striking "and" at the end;

(2) in subsection (b)(15), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (15) of subsection (b) the following new paragraph:

"(16) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs."; and

(4) in subsection (e)—

(A) by striking "When preparing" and inserting the following:

"(1) IN GENERAL.—When preparing"; and

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

"(2) LEAD-BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.".

SEC. 1015. TASK FORCE ON LEAD-BASED PAINT HAZARD REDUCTION AND FINANCING.

(a) IN GENERAL.—The Secretary shall establish a task force to make recommendations on expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

(b) MEMBERSHIP.—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, landlords, tenants, primary lending institutions, private mortgage insurers, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

(c) RESPONSIBILITIES.—The task force shall make recommendations concerning—

(1) incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) adjusting appraisal guidelines to address lead safety;

(4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the "safe harbor" concept;

(7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

(d) COMPENSATION.—The members of the task force shall not receive Federal compensation for their participation.

SEC. 1016. NATIONAL CONSULTATION ON LEAD-BASED PAINT HAZARD REDUCTION.

In carrying out this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the task force established pursuant to section 1015.

Subtitle B—Evaluation and Reduction Infrastructure

SEC. 1021. CONTRACTOR TRAINING AND CERTIFICATION.

All federally supported risk assessments, inspections and abatement of lead-based paint hazards shall be conducted by certified contractors. For 2 years following the date of enactment of this Act, this requirement may be met by successful completion of a federally sponsored training course. Federally approved training and certification programs shall be established in every State.

SEC. 1022. CERTIFICATION OF LABORATORIES.

All federally supported laboratory tests and analyses of lead in paint film, dust, soil, and other media shall be conducted by laboratories certified by the appropriate Federal agency.

SEC. 1023. GUIDELINES FOR LEAD-BASED PAINT HAZARD EVALUATION AND REDUCTION ACTIVITIES.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported risk assessments, inspections, interim

controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the purposes of risk assessments) and shall not be based upon criteria that measure the health of the residents of the housing.

(b) STATE AND LOCAL REGULATIONS.—Federally supported work shall be conducted in accordance with the guidelines issued under this section unless any State or local regulations impose more stringent standards or requirements than the Federal guidelines, in which case such work shall be conducted in accordance with the State or local regulations.

SEC. 1024. CONTRACTOR QUALITY CONTROL.

(a) PENALTY FOR NONCOMPLIANCE.—Any contractor who performs lead-based paint hazard work under this Act and who fails to comply with the certification requirements of this subtitle, or who substantially fails to comply with applicable Federal regulations or guidelines or applicable State or local regulations or guidelines, shall be subject to the penalty described in subsection (b).

(b) DETERMINATION BY SECRETARY.—After providing the contractor with notice concerning the nature of the noncompliance and an opportunity to respond, the Secretary shall determine whether the contractor should be declared ineligible to perform any or all work authorized by the Department of Housing and Urban Development. The Secretary may establish procedures for agency review of such determinations, which shall otherwise be final and nonreviewable in any court.

(c) OTHER REMEDIES.—A penalty under this section does not preclude the Department of Housing and Urban Development, or any party aggrieved by a contractor, from seeking redress through other means.

Subtitle C—Public Information and Technical Assistance

SEC. 1031. DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.

(a) LEAD DISCLOSURE PROVISIONS IN CONTRACT FOR PURCHASE AND SALE OF TARGET HOUSING.—

(1) LEAD-BASED PAINT AND LEAD-BASED PAINT HAZARDS.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations under this subsection for the disclosure of lead-based paint hazards in target housing which is offered for sale. The regulations shall require that, before the purchaser is obligated under any contract to purchase the premises, the seller shall—

(A) provide the purchaser with a lead hazard information pamphlet, as prescribed in subsection (c);

(B) disclose to the purchaser the presence of any known lead-based paint or any known lead-based paint hazards in such housing and provide to the purchaser any lead hazard evaluation report available to the seller; and

(C) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(2) CONTRACT FOR PURCHASE AND SALE.—Regulations promulgated under this subsection shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents,

(B) received a lead hazard information pamphlet, and

(C) had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the premises to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(3) CONTENTS OF LEAD WARNING STATEMENT.—The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.".

(4) COMPLIANCE ASSURANCE.—Whenever a seller has entered into a contract with an agent for the purpose of selling a unit of target housing, the regulations promulgated under this subsection shall require the agent, on behalf of the seller, to ensure compliance with the requirements of this subsection.

(b) LEASE OF TARGET HOUSING.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall promulgate regulations under this subsection for the disclosure of lead-based paint hazards in target housing that is offered for lease. The regulations shall require that before the lessee is obligated under any such lease, the lessor shall—

(1) provide the lessee with a lead hazard information pamphlet, as prescribed in subsection (c);

(2) disclose to the lessee the presence of any known lead-based paint or any known lead-based paint hazards in such housing and provide to the lessee any lead hazard evaluation report available to the lessor; and

(3) include the following Lead Warning Statement in any lease for a term of 1 year or more:

"Every lessee of any residential dwelling built prior to 1978 is notified that such dwelling may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The lessor of a residential dwelling is required to provide the lessee with any information on lead-based paint hazards from risk assessments or inspections in the lessor's possession and notify the lessee of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to entering into a lease.".

(c) LEAD HAZARD INFORMATION PAMPHLET.—Not later than 1 year after the date of enactment of this Act, after notice and opportunity for comment, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development and with the Secretary of Health and Human Services, shall publish, and from time to time revise, a lead hazard information pamphlet to be used in connection with this title. The pamphlet shall—

(1) contain information regarding the health risks associated with exposure to lead;

(2) provide information on the presence of lead-based paint or lead-based paint hazards in federally assisted, federally owned, and target housing;

(3) describe the risks of lead exposure for children under 6 years of age, pregnant women, women of child bearing age, persons involved in home renovation, and others residing in a dwelling with lead-based paint hazards;

(4) describe the risks of renovation in a dwelling with lead-based paint or lead-based paint hazards;

(5) provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure to lead-based paint hazards;

(6) advise persons how to obtain a list of contractors certified pursuant to section 1021 in lead-based paint hazard evaluation and reduction in the area in which the pamphlet is to be used;

(7) state that a risk assessment or inspection for lead-based paint is recommended prior to the purchase, lease, or renovation of target housing;

(8) state that certain State and local laws impose additional requirements related to lead-based paint in housing and provide a listing of Federal, State, and local agencies in each State, including address and telephone number, that can provide information about applicable laws and available governmental and private assistance and financing; and

(9) provide such other information about environmental hazards associated with residential real property as the Administrator of the Environmental Protection Agency deems appropriate.

(d) PENALTIES FOR VIOLATIONS.—

(1) MONETARY PENALTY.—Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

(2) ACTION BY SECRETARY.—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(3) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the mortgage applicant, purchaser, or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(4) COSTS.—In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(e) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

SEC. 1032. PUBLIC AWARENESS.

(a) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the heads of other appropriate Federal agencies, shall develop and undertake a campaign to increase public awareness of the dangers of childhood lead poisoning resulting from lead-based paint hazards. The campaign shall be designed—

(1) to inform the public of the health consequences of lead exposure resulting from lead-based paint hazards;

(2) to describe risk assessment and inspection methods for lead-based paint hazards; and

(3) to provide advice about measures to reduce the risk of lead exposure from lead-based paint. The campaign carried out under this subsection shall target parents of young children and persons involved in the rental, sale, and renovation of residential properties.

(b) COORDINATION.—The Secretary shall coordinate activities carried out under this section with the activities of the President's Commission on Environmental Quality, the Environmental Protection Agency, and any other public education efforts being undertaken by Federal agencies.

(c) AUTHORIZATION.—Of the total amount approved in appropriation Acts under section 1011(n), there shall be set aside to carry out this section $1,000,000 for fiscal year 1993 and $1,000,000 for fiscal year 1994.

SEC. 1033. RELATIONSHIP TO OTHER LAWS.

(a) STATE LAWS.—Nothing in this title shall annul, alter, affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to the provision of information concerning lead, except to the extent that the Secretary determines that any such law is inconsistent with this title, in which event, such law shall be affected only to the extent of remedying the inconsistency.

(b) ESTABLISHMENT OF MORE STRINGENT STANDARDS.—Nothing in this title shall be construed as precluding a State from establishing any standard of liability or other requirement concerning the disclosure of information concerning lead that is more stringent than the requirements of this title.

Subtitle D—Research and Development

PART 1—HUD RESEARCH

SEC. 1051. RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

SEC. 1052. TESTING TECHNOLOGIES.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for evaluating lead-based paint hazards in housing;

(2) develop improved methods for reducing lead-based paint hazards in housing;

(3) develop improved methods for measuring lead in paint films, dust, and soil samples;

(4) establish performance standards for various detection methods, including spot test kits;

(5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants;

(6) establish appropriate cleanup standards;

(7) evaluate the efficacy of interim controls in various hazard situations;

(8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard evaluation and reduction activities funded by this Act.

SEC. 1053. AUTHORIZATION.

Of the total amount approved in appropriation Acts under section 1011(n), there shall be set aside to carry out this part $5,000,000 for fiscal year 1993, and $5,000,000 for fiscal year 1994.

PART 2—GAO REPORT

SEC. 1056. FEDERAL IMPLEMENTATION AND INSURANCE STUDY.

(a) FEDERAL IMPLEMENTATION STUDY.—The Comptroller General of the United States shall assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations, including any changes needed in annual inspection procedures to identify lead-based paint hazards in units receiving assistance under subsections (b) and (o) of section 8 of the United States Housing Act of 1937.

(b) INSURANCE STUDY.—The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, the Comptroller General shall—

(1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing;

(2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and

(3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

Subtitle E—Reports

SEC. 1061. REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

(a) ANNUAL REPORT.—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this title;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard evaluation and reduction activities;

(4) describes the results of research carried out in accordance with subtitle D; and

(5) estimates the amount of Federal assistance annually expended on lead hazard evaluation and reduction activities.

(b) BIENNIAL REPORT.—

(1) IN GENERAL.—24 months after the date of enactment of this Act, and at the end of every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing expanded lead-based paint hazard evaluation and reduction activities.

(2) CONTENTS.—The report shall—

(A) assess the effectiveness of section 1031 in making the public aware of lead-based paint hazards;

(B) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various categories of housing;

(C) monitor and report expenditures for lead-based paint hazard evaluation and reduction for programs within the jurisdiction of the Department of Housing and Urban Development;

(D) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(E) assess the extent to which the infrastructure described in subparagraph (D) exists, make recommendations to correct shortcomings, and provide estimates of the costs of measures needed to build an adequate infrastructure; and

(F) include any additional information that the Secretary deems appropriate.

TITLE XI—MISCELLANOUS PROVISIONS

SEC. 1101. DELAY USE OF 1990 CENSUS HOUSING DATA TO EXAMINE EFFECT ON TARGETING FOR CDBG FORMULA.

Notwithstanding any other provision of law, for fiscal year 1993, no data derived from the 1990 Decennial Census, except those relating to population and poverty, shall be taken into account for purposes of the allocation of amounts under section 106 of the Housing and Community Development Act of 1974.

SEC. 1102. INVESTMENT OF FUNDS.

Notwithstanding any other provision of law, funds provided to Montgomery County, Ohio, pursuant to title II of Public Law 101-625, the Cranston-Gonzalez National Affordable Housing Act, may be spent in any jurisdiction contiguous to Montgomery County, Ohio.

SEC. 1103. PUBLIC HOUSING AUTHORITY INSURANCE POOLS.

Following the third "Hereafter" under the head "Administrative Provisions", Public Law 102-139, 105 Stat. 758, strike out "that such entities" and all that follows through the period at the end of the sentence and insert in lieu thereof "that such entities are duly constituted and operating according to the laws of the various States in which they operate and meet such other standards as the Secretary deems appropriate.".

WAIVER OF CERTAIN TRADE RESTRICTIONS WITH RESPECT TO THE PEOPLES' REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 272

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on September 11, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), and section 608(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Public Law 102-140), I hereby report to the Congress that it is in the national interest of the United States to waive the restrictions contained in those acts on the export to the Peoples' Republic of China of U.S.-origin satellites and Munitions List articles insofar as such restrictions pertain to the APSAT, Asiasat 2, Intelsat VIIA, STARSAT, AfriSat, and Dong Fang Hong 3 projects.

Attached is my jurisdiction for the aforesaid actions.

GEORGE BUSH.

THE WHITE HOUSE, *September 11, 1992.*

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-3854. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Minimum Wage and Maximum Hours Standards under the Fair Labor Standards Act"; to the Committee on Labor and Human Resources.

EC-3855. A communication from the Inspector General of the Railroad Retirement Board, transmitting, pursuant to law, the budget request of the Office of Inspector General, U.S. Railroad Retirement Board, for fiscal year 1994; to the Committee on Labor and Human Resources.

EC-3856. A communication from the Secretary of Education, transmitting, pursuant to law, notice of Final Regulation—Assistance to States for Education of Handicapped Children Program and the Early Intervention Program for Infants and Toddlers with Disabilities; to the Committee on Labor and Human Resources.

EC-3857. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the National Technical Institute for the Deaf for fiscal year 1991 with the Rochester Institute of Technology NTID Overhead Study for the period July 1, 1990 through June 30, 1991; to the Committee on Labor and Human Resources.

EC-3858. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations, to the Committee on Budget, to the Committee on Agriculture, Nutrition and Forestry, to the Committee on Armed Services, to the Committee on Commerce, Science and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Foreign Relations, to the Committee on Labor and Human Resources.

EC-3859. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report entitled "The Economic and Budget Outlook: An Update"; pursuant to the order of January 30, 1975, as modified on April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Agriculture, Nutrition and Forestry, to the Committee on Armed Services, to the Committee on Banking, Housing and Urban Affairs, to the Committee on Commerce, Science and Transportation, to the Committee on Energy and Natural Resources, to the Committee on Environment and Public Works, to the Committee on Finance, to the Committee on Foreign Relations, to the Committee on Governmental Affairs, to the Committee on Judiciary, to the Committee on Labor and Human Resources, to the Committee on Rules and Administration, to the Committee on Small Business, to the Committee on Veterans' Affairs, to the Select Committee on Indian Affairs, to the Select Committee on Intelligence, to the Special Committee on Aging.

EC-3860. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual Horse Protection Enforcement Report; to the Committee on Agriculture, Nutrition and Forestry.

EC-3861. A communication from the Under Secretary of Defense, transmitting, pursuant to law, notice that the current Future Years Defense Program fully funds the support costs associated with the GPS Navstar Satellite Program; to the Committee on Armed Services.

EC-3862. A communication from the Acting Assistant Secretary of the Army (Financial Management), transmitting, pursuant to law, notice of the value of property, supplies, and commodities provided by the Berlin Magistrate for the quarter April 1, 1992 through June 30, 1992; to the Committee on Armed Services.

EC-3863. A communication from the Director of the Office of Dependents Schools of the Department of Defense, transmitting, pursuant to law, the Annual Test Report for the Department of Defense Dependents Schools for the School Year 1991-1992; to the Committee on Armed Services.

EC-3864. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "De Minimis Levels For Commercial Real Estate Appraisals"; to the Committee on Banking, Housing and Urban Affairs.

EC-3865. A communication from the Acting Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the Federal Deposit Insurance Corporation's annual report for the calendar year 1991; to the Committee on Banking, Housing and Urban Affairs.

EC-3866. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation within five days of enactment; to the Committee on the Budget.

EC-3867. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-3868. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC-3869. A communication from the Deputy Associate Director for Collection and Disbursement for the Department of the Interior, transmitting, pursuant to law, a report on the refunds of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3870. A communication for the President of the United States, transmitting, a draft of proposed legislation entitled the "Idaho Public Lands Wilderness Act"; to the Committee on Energy and Natural Resources.

EC-3871. A communication from the Secretary of Labor, transmitting, pursuant to law, a report on the Expenditure and Need for Worker Adjustment Assistance Training Funds Under the Trade Act of 1974; to the Committee on Finance.

EC-3872. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the activities after April 30, 1990 of the United Nations Educational, Scientific and Cultural Organization (UNESCO); to the Committee on Foreign Relations.

EC-3873. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of the President's determination that the furnishing, sale, and/or lease of defense articles and services to Zambia will strengthen the security of the United States and promote world peace; to the Committee on Foreign Relations.

EC-3874. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report entitled "Specific Human Rights Conditions in Ethiopia, April 15-July 14, 1992"; to the Committee on Foreign Relations.

EC-3875. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report from an Accountability Review Board on an incident which occurred on February 11, 1992 in Lima, Peru; to the Committee on Foreign Relations.

EC-3876. A communication from the Acting Secretary of the Postal Rate Commission, transmitting, pursuant to law, Rules of Practice and Procedure; to the Committee on Governmental Affairs.

EC-3877. A communication from the Secretary of Education, transmitting, pursuant to law, the biennial report to Title III Higher Education Act Strengthening Institutions Program Waivers Approval List and Minority Enrollment; to the Committee on Labor and Human Resources.

EC-3878. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report to Congress on the Health Care for the Homeless Program for the calendar year 1990; to the Committee on Labor and Human Resources.

EC-3879. A communication from the Secretary of Education, transmitting, pursuant to law, final regulation for student assistance general provisions; to the Committee on Labor and Human Resources.

EC-3880. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priority for fiscal year 1993—transitional bilingual education program; special alternative instructional program; to the Committee on Labor and Human Resources.

EC-3881. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the Federal Election Commission fiscal year 1994 budget request; to the Committee on Rules and Administration.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-458. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"ASSEMBLY JOINT RESOLUTION NO. 66

"Whereas, California is one of the richest, most diverse agricultural regions in the world, with productive soils, a favorable climate, and available irrigation water; and

"Whereas, California produces 11 percent of the nation's agricultural products, has 10 percent of the nation's population, and would have the world's seventh highest gross national product if it were a nation; and

"Whereas, California's soil and water resources are essential to the economic viability of the state's economy, but California has many significant soil and water-related problems, including soil erosion, salinity, toxicity, contamination, loss of organic matter, agricultural land conversion, compaction, subsidence, and water management; and

"Whereas, California's 116 resource conservation districts work in partnership with the Soil Conservation Service of the United States Department of Agriculture (USDA) to address local, state, and federal resource problems, and to promote voluntary resource conservation; and

"Whereas, The USDA Soil Conservation Service in California receives only 2.3 percent of the national Soil Conservation Service budget, which is inadequate to effectively address California's critical soil and water resource needs and priorities; and

"Whereas, California's contribution to national agricultural production and its population is disproportionate to the small share of funding California's USDA Soil Conservation Service receives to address California's many and diverse resource problems; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature urges that federal funding for USDA Soil Conservation Service activities in California be increased in proportion to the state's identified conservation needs and contributions to the nation as a whole, to avoid impairment of some of the nation's most productive resources; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-459. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Appropriations:

"JOINT RESOLUTION 42

"Whereas the Federal Women, Infants, and Children Program (WIC) provides medical care and nutritious supplemental food to women and children, including prenatal care to pregnant women; and

"Whereas WIC's supplemental food and medical care give children the healthy start they need to learn well in school and achieve their full potential as human beings; and

"Whereas WIC's early prenatal care for pregnant women significantly improves pregnancy outcomes, decreasing the number of fetal deaths that might otherwise occur and averting low-birth-weight babies who would otherwise get off to a slow start in life; and

"Whereas WIC is highly cost effective in the long run because healthy, educated children can become the productive citizens our country needs to remain competitive in an increasingly international economy; and

"Whereas WIC is also highly cost effective in the short run because low-birth-weight babies and malnourished children would require more expensive health care under other public assistance programs; and

"Whereas WIC currently serves only 9,174 of the estimated 25,821 potentially eligible women, infants, and children in Alaska; and

"Whereas Alaska has one of the highest infant mortality rates in the country; and

"Whereas food costs in Alaska are high, especially in rural areas, so that WIC dollars based on current allocations from insufficient funds can serve fewer participants compared to other states; and

"Whereas the Congress, through the work of the Budget and Appropriations Committees, has been regularly increasing WIC funding levels, but this year's funding level will still serve only 54 percent of those who are eligible nationwide, leaving 4,000,000 women, infants, and children without the benefits of the program; and

"Whereas the Bush Administration has recommended further increases in WIC funding for fiscal year 1992 but the program would still be grossly underfunded; and

"Whereas full funding of WIC is an important cornerstone in building toward the national goal of ensuring that, by the year 2000, all children should start school ready to learn;

"*Be it resolved* that the Alaska State Legislature commends the Administration and the Congress for their prior actions that have increased funding for WIC, and be it

"*Further resolved* that the legislature strongly urges the Administration and the Congress to continue to invest in our future by increasing WIC funding so that all eligible women, infants, and children will be served no later than fiscal year 1995."

POM-460. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Commerce, Science, and Transportation:

"JOINT RESOLUTION 52

"Whereas, in June 1991, the North Pacific Fishery Management Council approved plans to allocate specific percentages of the fishery resources of the Gulf of Alaska and the Bering Sea to the inshore processing sector and to the offshore processing sector; and

"Whereas the plans are being reviewed by the U.S. Department of Commerce; and

"Whereas the plans cannot be implemented until they are approved by the Secretary of Commerce; and

"Whereas the offshore processing sector, commonly known as factory trawlers, has launched an extensive lobbying campaign in Washington D.C. with the goal of convincing the Secretary of Commerce to reject the proposed plans to allocate between inshore and offshore processors; and

"Whereas factory trawlers practice highly wasteful fishing techniques; and

"Whereas, in the Gulf of Alaska and the Bering Sea, factory trawlers discard approximately one pound of fish for every 2.5 pounds of fish utilized; and

"Whereas, in the Gulf of Alaska, the shore based catcher fleet utilizes six pounds of fish for every pound of fish discarded; and

"Whereas, in the Bering Sea, the shore based catcher fleet utilizes 34 pounds of fish for every pound of fish discarded; and

"Whereas factory trawlers harvest fishery resources that are the common property of the United States, yet do not pay any royalties, bonuses, or taxes on these resources; and

"Whereas the shore based harvesting and processing sectors pay State of Alaska, and often municipal, fisheries taxes on fish landed; and

"Whereas the taxes paid by shore based harvesters and processors help pay for fisheries management, enforcement, research, and local support services; and

"Whereas shore based processing facilities must satisfy both state and federal food processing regulations in order to ensure the wholesomeness of the product and are inspected regularly while the factory trawlers are not held to these same standards; and

"Whereas federal and state law pertaining to worker safety are enforced at shore based processing facilities while working conditions aboard factory trawlers are virtually unregulated; and

"Whereas shore based processing facilities are strictly regulated for pollutant discharge in order to ensure protection of the environment while factory trawlers are subject to less strict standards and, by the nature of their operations, can make illegal discharges that are less likely to be detected; and

"Whereas the approval of the inshore and offshore fisheries allocation plans is one of the most critical issues now facing the State of Alaska; and

"Whereas the approval of the inshore and offshore fisheries allocation plans is an absolute necessity for the economic stability of Alaska's coastal communities and for the economic and social well-being of the thousands of people who live and work in those communities;

"*Be it resolved* that the Alaska State Legislature respectfully requests the Secretary of Commerce to approve and implement the inshore and offshore fisheries allocation plans proposed by the North Pacific Fishery Management Council."

POM-461. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Energy and Natural Resources:

"JOINT RESOLUTION 62

"Whereas the United States is recognized as the world leader in stimulating the pursuit of global democracy; and

"Whereas the United States supports the extension of self-determination to all peoples, especially to those in territories under is jurisdiction; and

"Whereas the Alaska State Legislature supports the search by each territory governed by the United States for the political standing best suited to its people; and

"Whereas the citizens of the Territory of Alaska fought long and hard for their own self-determination within the United States and eventually achieved it in 1959 with statehood; and

"Whereas Alaskans recognize and identify with the desire of the people of Guam to determine their own political, social, and economic future; and

"Whereas the Territory of Guam is attempting to establish a just political relationship between the people of Guam and the United States and is trying to allow its people to participate in this attempt; and

"Whereas the Guam Territorial Legislature has obtained introduction of the Commonwealth Act of Guam in the United States Congress that would accord the Territory commonwealth status; and

"Whereas there is growing support for providing commonwealth status for Guam, as evidenced by the policy statements and resolutions of various national groups, including members of Congress and the current administration, the National Governors Association, the National Conference of State Legislatures, the Western Legislative Conference, and the United States Conference of Mayors; and

"Whereas the people of Guam are citizens of the United States and should be given all the rights afforded citizens in the United States Constitution;

"*Be it resolved* that the Alaska State Legislature supports the people of Guam's efforts to achieve commonwealth status and a just and permanent relationship with the United States; and be it

"*Further resolved* that the Alaska State Legislature urges the United States government to allow the people of Guam to determine their own political, social and economic future while retaining the protection of the U.S. Constitution."

POM-462. A resolution adopted by the Council of the County of Maui, Hawaii urg-

ing the President and the Congress to honor and fulfill the Federal trust relationship and obligation to Native Hawaiians; to the Committee on Energy and Natural Resources.

POM-463. A resolution adopted by the Council of the County of Kauai, Hawaii urging the President and the Congress to honor and fulfill the Federal trust relationship and obligation to Native Hawaiians; to the Committee on Energy and Natural Resources.

POM-464. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

"ASSEMBLY JOINT RESOLUTION NO. 59

"Whereas, Wetlands are a critically important natural resource, constituting habitat for threatened and endangered species and Pacific Flyway waterfowl, and serving as flood storage and groundwater recharge areas; and

"Whereas, Over 90 percent of the state's historical wetlands acreage has been converted to other uses, and the quality of many of the remaining wetlands has been reduced by pollution, water diversions, and drought; and

"Whereas, California's remaining wetlands cover approximately 450,000 acres, and these are considered by experts to be a baseline beyond which further losses would cause irreparable damage to the state's natural resources; and

"Whereas, These remaining wetlands are currently eligible for protection under the federal Clean Water Act (33 U.S.C. Sec. 1251 and following), but revisions to the federal Wetlands Delineation Manual proposed by the Environmental Protection Agency could result in fully half of the state's wetlands no longer being afforded federal protection; and

"Whereas, As much as 75 percent of currently protected coastal wetlands in southern California, including important habitat for migratory and local birds at Bolsa Chica, Ballona, and Batiquitos, would no longer be eligible for federal protection; and

"Whereas, The Central Valley, containing over two-thirds of the state's wetlands, would lose federal protection for over half of the 150,000 acres of historical wetlands; and

"Whereas, Over half of the essential habitat for shorebirds and many fish species within San Francisco Bay would lose federal protection under the proposed plan; and

"Whereas, The primary reason for the loss of federal protection in all these areas would be the hydrology requirement of inundation of 15 days and saturation at the surface for 21 days during the growing season which, in California's arid, often drought stricken climate, would eliminate by definition much of the state's historic wetlands; and

"Whereas, The state has neither the financial resources nor the regulatory authority to undertake the responsibilities required to continue the current level of protection; and

"Whereas, The current system is subject to complaints of having subjected property owners to costly and time consuming regulatory burdens, but these problems will not be solved and many be worsened if the proposed changes are implemented before there has been an opportunity to develop a comprehensive, statewide approach to prevent short-term loss and achieve long-term gain in critically necessary wetlands; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President of the United States to continue the use of the wetlands definition currently in use by the federal government in California and not adopt the proposed new wetlands policy; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and the Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-465. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION NO. 72

"Whereas, The national defense buildup has required a significant commitment of this country's fiscal, scientific, and human resources into research and development, state of the art technology, and manufacturing; and

"Whereas, The current trend away from a national manufacturing-based economy toward an economy fueled by service industries has accelerated as a result of both defense industry downsizing and a tendency for United States manufacturing to seek lower cost production sites offshore; and

"Whereas, The unprecedented expenditures of national defense dollars in research and development and high-technology production should be considered a national commitment to the creation of a manufacturing powerhouse of world class workers; and

"Whereas, A high priority must be given to public policy development that assists in redirecting these skills and technologies to high value, nondefense industries; and

"Whereas, Domestic industry development in areas which serve to improve quality of life and support environmental protection will have long-term national benefit; and

"Whereas, Recent federal policies have committed significant resources to research, development, and production of clean advanced transportation technologies; and

"Whereas, Stringent California environmental laws requiring introduction of low and zero emission vehicles over the next decade have created both a market and a mandate for this production; and

"Whereas, National incentives are needed to encourage consumer investments in these new socially and environmentally responsible industries; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature respectfully memorializes the President and Congress of the United States to secure prestige for America as a forerunner in the development of a clean fuel vehicle industry by providing consumer investment tax credits to stimulate a national market for the purchase of electric and other alternative fuel vehicles; and be it further

Revolved, That the Chief of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-466. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Foreign Relations:

JOINT RESOLUTION 48

"Whereas the past year's fluctuations in prices and supply patterns for oil once again demonstrate that the access of the United States to this vital strategic resource is vulnerable to concerted political action by governments in the Middle East; and

"Whereas, in 1990, the reliance of the United States on imported oil increased to 47 percent, the highest percentage in nine years, and with the demand in the United States for oil increasing at an average rate of three percent each year for the past five years, this reliance on imported oil will increase because the domestic oil exploration and production capability of the United States has seriously eroded; and

"Whereas, until 1986, the United States had successfully increased its import of petroleum products from its neighbors in the Western Hemisphere and decreased its imports from the volatile Middle East, but this positive trend has been reversed, and Middle East imports of crude oil to the United States continue to increase; and

"Whereas the energy crisis of the 1970's taught the United States that manipulation of the world oil market by sovereign governments can run counter to the interests of the United States; and

"Whereas the energy crisis of the 1970's also proved that several of the trading allies of the United States could be counted on for support in troubled times, since Venezuela, Mexico, and Canada increased their exports of oil to the United States during the crisis while other nations reduced their exports to the United States; and

"Whereas Canada and the United States have the most extensive reciprocal trade situation in the world, and each is the other's largest export market, with Canada selling three-quarters of its exports to United States markets while absorbing almost one-quarter of the total exports of the United States; and

"Whereas Canada and the United States have a history of cooperation and trade as energy partners; Canada currently supplies about 12 percent of the oil consumed in the United States and approximately seven percent of the natural gas consumed in the United States, the equivalent of over 700,000 barrels of crude oil a day; if United States oil and natural gas supplies are reduced, imports of Canadian gas will contribute greatly to the energy security of the United States; and

"Whereas Mexico shares not only a common border but also a rich cultural heritage with the southwestern part of the United States, and has developed into one of the major sources of imported oil and natural gas for the United States; Mexico was the sixth largest supplier of crude oil to the United States during 1990; and

"Whereas Mexico depends on oil earnings to provide revenue for its government, and the investments by Peteroles De Mexicana, a company owned by the Mexican government, in future oil and gas development, and the United States' clear need for stable, long-term supplies of oil suggest that the United States' trading relationship with Mexico will grow in the future; and

"Whereas more than one-half of all Venezuelan oil exports are made to the United States and, during 1990, Venezuela was the leading exporter of petroleum products and the second largest of crude oil to the United States; Venezuela is second only to Saudi Arabia as the most significant oil exporter to the United States; and

"Whereas Venezuela has the ability to export large quantities of crude oil and petroleum products for many decades, and the United States and Venezuela are close geo-

graphical neighbors that, along with Mexico and Canada, share similar forms of democratic government; and

"Whereas, since the United States will need to rely on foreign sources of oil for the foreseeable future and the oil situations and long-term energy interests of Venezuela and the United States are complementary, the United States and Venezuela should continue to be important commercial partners for many years under fair conditions of trade; and

"Whereas Canada, Mexico, Venezuela, and the United States are long-standing energy trading partners who share a history of working together in successful oil and gas exploration and development and who share the fluctuations of a rapidly changing energy environment; and

"Whereas Canada, Mexico, Venezuela, and the United States share a common vision of the future in which a sound energy industry in each of the counties is able to provide the energy security needed to ensure the health and vitality of the entire economy of the American nations; and

"Whereas the governments of the United States, Canada, Mexico, and Venezuela are striving to improve the overall well-being of all of their citizens while providing rich opportunities for individual freedom and growth, and it is natural for their representatives to explore options that will increase the energy security of the Western Hemisphere; and

"Whereas the Energy Council, of which Alaska is a member, actively supports and promotes the concept of an energy alliance among the nations of the Western Hemisphere;

"Be it resolved that in recognition of the long-standing trading history with Canada, Mexico, and Venezuela and, in order to plan for increased security of the people and economies of the United States, Canada, Mexico, and Venezuela, the Alaska State Legislature urges the President of the United States and the United States Congress to engage in formal talks with the governments of Canada, Mexico, and Venezuela, as well as with other interested American countries, to develop a Pan-American energy alliance to provide reciprocal energy security measures for the nations of the Western Hemisphere; and be it

"Further resolved that the Alaska State Legislature supports the efforts and work of the Energy Council to promote a Pan-American energy alliance and urges Governor Hickel and the current administration of the state to participate in these efforts."

POM-467. A joint resolution adopted by the Legislature of the State of Alaska; to the Select Committee on Indian Affairs:

"JOINT RESOLUTION 73

"Whereas 25 U.S.C. 1901-1963 (Indian Child Welfare Act) (ICWA) requires that adoption and custody proceedings for an Alaska Native child be conducted in a way that emphasizes the child's tribal heritage and the rights of the child's tribe or village to intervene in the proceedings to protect the tribe's or village's rights; and

"Whereas ICWA's purpose was to protect American Indian and Alaska Native children from being removed from their tribes or villages due to social, emotional, or family problems; and

"Whereas the effect of ICWA has been that placement decisions and social services related to Alaska Native children are handled differently than they are for non-Native children; and

"Whereas it has been 14 years since passage of ICWA, and no comprehensive study of its effects has ever been done;

"Be it resolved that the Alaska State Legislature urgently requests the Bureau of Indian Affairs, the General Accounting Office of the Congress, and the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives to cooperate in a comprehensive review of the implementation of the Indian Child Welfare Act, with particular attention to the following issues:

"(1) whether Alaska Native children are being well protected by ICWA and whether improvements could be made in ICWA so that Alaska Native children are better protected;

"(2) whether tribes and villages are aided by ICWA in maintaining their cultural integrity;

"(3) whether Alaska Natives or others have personal comments to make about implementation of ICWA and whether ICWA has caused any problems;

"(4) whether related funding and provision of social services to strengthen Alaska Native families, tribes, and villages has kept pace with the goals of ICWA and the needs of Alaska Natives;

"(5) whether, based on the last 14 years of experience in implementing ICWA, changes are now needed in the law to better achieve its purposes."

POM-468. A joint resolution adopted by the Legislature of the State of Alaska; to the Select Committee on Indian Affairs:

"JOINT RESOLUTION 68

"Whereas the filing deadline for Alaska Native allotments fell on December 18, 1971, a date during the United States' involvement in the conflict in Vietnam; and

"Whereas many Alaska Natives participated in the military during the Vietnam conflict; and

"Whereas many Alaska Native Vietnam veterans were not notified and were not aware of the Native allotment process during the filing period; and

"Whereas veterans should not be denied benefits that they would have received if they had not been in the military service;

"Be it resolved that the Alaska State Legislature urges the Congress to amend federal law in a manner that would allow otherwise eligible Alaska Native veterans a new 18-month filing period for Native land allotments."

POM-469. A resolution adopted by the Senate of the State of Alaska; to the Committee on Appropriations:

"SENATE RESOLUTION 9

"Whereas the United States Geological Survey Volcano Hazards Program in the Department of Interior, through its Alaska Volcano Observatory, provides warnings and advisories concerning impending and ongoing volcanic eruptions in Alaska to business, government, and the public; and

"Whereas these warnings and advisories save lives and property in Alaska and in aircraft flying over Alaska; and

"Whereas the future of Alaska depends upon a safe environment for business and commerce and a growing role as a stopping place for the world's airlines; and

"Whereas the airline industry has voiced its concern about proper monitoring of Alaska's volcanoes; and

"Whereas Alaska contains most of the hazardous volcanoes in the United States; and

"Whereas the Alaska Volcano Observatory is the only source of volcano hazard expertise in Alaska;

"Be it resolved that the Alaska Senate respectfully requests the United States Congress to restore funding in fiscal year 1993 for the Alaska Volcano Observatory to the 1992 level, and to appropriate sufficient additional funds to include the heavily traveled Aleutian region in the volcano monitoring effort; and

"Be it further resolved that the Alaska Senate respectfully requests the Department of Interior to include the Alaska Volcano Observatory in its budget for the U.S. Geological Survey Volcano Hazards Program at a level that provides for the safety of the public and commerce in Alaska."

POM-470. A petition from a citizen of Springfield, Missouri, relative to limits on congressional terms; to the Committee on the Judiciary.

POM-471. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary.

"ASSEMBLY JOINT RESOLUTION NO. 5

"Whereas, California's criminal justice system is presently inundated with pending criminal cases involving drug-related offenses and felonies; and

"Whereas, a significant number of these accused individuals are undocumented persons; and

"Whereas, the minority of undocumented persons who engage in criminal activity has an impact on the overall cost of the California criminal justice system; and

"Whereas, California would benefit by a more efficient screening and subsequent deportation of these convicted felons by the United States Immigration and Naturalization Service; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memoralizes the United States Immigration and Naturalization Service to identify each person in California who has a final conviction for a drug-related felony offense or a violent felony, regardless of race, national origin, or ancestry, for the purpose of determining whether he or she is an undocumented person, and to direct the Department of Corrections to request the Federal Bureau of Prisons to take custody of these persons for the remainder of their prison terms and surrender those undocumented persons to the United States Immigration and Naturalization Service for formal deportation; and be it further

"*Resolved*, That for these purposes, a judgment or conviction is final after all direct appeal rights have been exhausted or waived, or the appeal period has lapsed; and be it further

"*Resolved*, That the United States Department of Justice should fully enforce all applicable federal laws upon reentry of these undocumented persons who violate the provisions of the federal Immigration and Nationality Act; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Attorney General of the United States, to each Senator and Representative from California in the Congress of the United States, and to each United States Attorney in California."

POM-472. A joint resolution adopted by the Legislature of the State of Alaska; to the Select Committee on POW/MIA affairs:

"JOINT RESOLUTION 41

"Whereas there are more than 88,000 American service personnel missing in action

from World War II, the Korean War, and the Vietnam conflict; and

"Whereas recent information has been released regarding American service personnel held against their will after World War II, the Korean War, and the Vietnam conflict; and

"Whereas on April 12, 1973, the United States Department of Defense publicly stated that there was no evidence of live American prisoners of war in Southeast Asia; and

"Whereas the public statement was given nine days after Pathet Lao leaders had declared that Laotian communist forces did in fact have live American prisoners of war in their control; and

"Whereas the prisoners of war held by the Laotian government and its military forces were never released; and

"Whereas there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of unresolved and discrepancy cases; and

"Whereas there is conjecture that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members or that was misinterpreted or manipulated in government files; and

"Whereas the POW/MIA Truth Bill has been introduced into the United States Congress, and the bill would direct the heads of the federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, the Korean War, and the Vietnam conflict; and

"Whereas the bill protects national security by censoring the sources and methods used to collect the live sighting reports; and

"Whereas the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones; and

"Whereas the Senate Select Committee on POW/MIA Affairs has been established in the United States Congress to resolve the POW/MIA issue;

"Be it resolved that the Alaska State Legislature urges the United States Congress to oppose lifting trade embargoes, lifting economic sanctions, and normalizing affairs with Vietnam and Laos until the Congress resolves the POW/MIA issue in Southeast Asia based on the recommendations of the Senate Select Committee on POW/MIA affairs; and be it

"Further resolved that the Alaska State Legislature requests the United States Congress to continue funding its investigation into the status of missing American service personnel, which is vital to resolving the POW/MIA issue."

POM-473. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 53

"Whereas, the California State Legislature hereby expresses consternation at the decision by the Secretary of the Department of Veterans Affairs, Edward Derwinski, to close the Veterans Affairs Medical Center at Martinez, California; and

"Whereas, on August 9, 1991, at a time when Congress was in summer recess, Secretary Derwinski suddenly announced the Martinez center would close within 120 to 180 days of August 12, 1991; and

"Whereas, this decision results in the virtual abandonment of 420,000 northern California veterans, one of the largest service catchment areas in the Department of Veterans Affairs health care system and essentially eliminates their ability to access Department of Veterans Affairs medical care; and

"Whereas, the closure of this facility potentially transfers the financial burden for veterans' medical care to California counties, which are ill prepared to meet the need and are indeed struggling to meet their existing obligations; and

"Whereas, the Department of Veterans Affairs apparently did not follow protocol prior to making a decision of this magnitude by not consulting with local medical staff, local providers who contract with the Department of Veterans Affairs, veterans' organizations, county veteran service officers, but, most important, veterans themselves; and

"Whereas, the Martinez center closure was initiated without a transitional plan and replacement facilities in place, causing veterans to experience severe anxiety due to access and transportation problems; and

"Whereas, the Department of Veterans Affairs apparently did not address the significant negative economic impact of rapidly closing a 359-bed facility with 1,500 employees and an extensive support system, the loss of the $70,000,000 per year in expenditures, and the loss of comprehensive outpatient services and research programs; and

"Whereas, the Department of Veterans Affairs has not provided evidence pertaining to the "seismic deficiencies of the facility" for public or congressional scrutiny, while the City of Martinez has provided evidence that Martinez does not sit on an earthquake fault as the Department of Veterans Affairs alleges; and

"Whereas, since the facility was built in 1961 and opened in 1963, it has withstood every major and minor earthquake in the bay area since that time; and

"Whereas, the ongoing closure of the Martinez center seems contradictory because of the Department of Veterans Affairs' assurance that Martinez was structurally sound and safe following the 1989 Loma Prieta earthquake and the designation of the facility as a backup treatment center for Persian Gulf War casualties as recently as January 1991; and

"Whereas, the absence of concern for patient and staff safety during the early 1980's when the Department of Veterans Affairs first learned about the "alleged" seismic deficiencies at the facility suggests the need for further explanation of these unwarranted actions; and

"Whereas, it is not the intent of the Legislature to minimize the significance of the services which dedicated Department of Veterans Affairs employees render to our veterans, their dependents, and survivors; and

"Whereas, when a decision by the Department of Veterans Affairs is detrimental to thousands of veterans and their families, it is imperative that the information on which the decision is based be available for public scrutiny. It is in this spirit that we question the closure of the Veterans Affairs Medical Center at Martinez; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the Congress of the United States to mandate a moratorium on the closure schedule, and conduct a congressional hearing to determine the need to close the Veterans Affairs Medical Center at Martinez; and be it further

"*Resolved*, That the Department of Veterans Affairs be instructed to develop a comprehensive transition plan, and have replacement facilities in place before the closure of the Martinez center or any medical center, if the findings of the hearing indicate the Veterans Affairs Medical Center at Martinez should be closed; and be it further

"*Resolved*, That the Chief Clerk of the Assembly shall send copies of this resolution to the President of the United States, to the Secretary of the Department of Veterans Affairs, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance, without amendment:

S. 3230. An original bill to amend title 31 of the United States Code, to establish a Department of the Treasury Forfeiture Fund (Rept. No. 102-398).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 5465. A bill to amend title XIII of the Federal Aviation Act of 1958 relating to aviation insurance (Rept. No. 102-399).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2899. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

SUMMARY OF PROVISION IN S. 2899

The provisions of S. 2899 are, in virtually all respects, identical to the provisions of H.R. 2507. The authors of the new legislation incorporate by reference the description of those provisions and the legislative intent laid out in the Senate and House Committee reports and the Conference report for the earlier bill. This summary is intended to describe those areas in which S. 2899 differs from H.R. 2507.

BUDGET

The legislation includes authorization for the same activities as were included in H.R. 2507. In an effort to address concerns that the bill authorized too large an increase in specific spending programs, however, authorizations in S. 2899 have been generally changed from dollar amounts to the traditional authorization of "such sums as may be necessary." The authorizations that have been retained from the earlier bill are special legislative initiatives that have been supported by a wide range of Members of the House and the Senate. These are Women's Health Initiatives (including expanded breast, ovarian, and other gynecological cancer research programs, and an osteoporosis program) as well as a prostate cancer program.

FETAL TISSUE TRANSPLANTATION

The legislation includes the provisions of H.R. 2507 regarding fetal tissue transplantation research. These original provisions contain safeguards against potential abuse, including the prohibition of the sale of tissue; the prohibition of directed donations; the requirement that informed consent for the abortion procedure be obtained separately from and before the informed consent for the donation of fetal tissue; and the requirement that health care providers certify that no alternation has been made in the method or timing of the abortion for the sole purpose of acquiring fetal tissue. (A full discussion of these provisions appears in the

Conference Report and the House and Senate Committee reports that accompanied H.R. 2507 and this discussion remains an accurate description of these issues in this legislation and the legislative intent behind them.)

In addition to these provisions that are retained from the original bill, the legislation also includes a modification regarding the use of tissue from the Fetal Tissue Transplantation Bank established under Executive Order 12806 of May 19, 1992. The legislation maintains the current moratorium on NIH-funded fetal tissue transplantation research using tissue from induced abortions through May 19, 1993. From that date forward, the moratorium is lifted: Research on fetal tissue transplantation may be funded by the NIH if the principal investigator for the research project declares that the tissue used for transplantation is to be either (a) obtained from the Bank established under Executive Order 12806 or (b) obtained from other sources after a request has been submitted to this Bank and 14 days have elapsed without the bank providing tissue that the researcher finds appropriate for the purposes of the research.

This change has been adopted in order to provide an opportunity for the Bank to begin operation and to prove itself effective without jeopardizing the potential for research if it is not. There has been a great deal of debate about whether the Bank can successfully supply appropriate tissue for transplantation research. The Administration has argued that tissue from miscarriages and from abortions for ectopic pregnancies will be adequate; many other researchers have argued that such tissue will be inappropriate because of genetic disease, viral and bacterial contamination, and inaccessibility for timely donation. Under the terms of the legislation, the research will be allowed to proceed, whichever position is correct.

ETHICS ADVISORY BOARDS

The legislation also differs for H.R. 2507 in provisions regarding ethics advisory boards. In the original legislation, if an ethics advisory board found that the proposed research is ethical and should proceed, the Secretary could not override the decision. In response to concerns that the Secretary should have final say in such a matter, a provision has been added to allow the Secretary to review the decision of an ethics advisory board and to set it aside if, on the basis of its report, the Secretary finds that the decision is arbitrary and capricious. This common and well-known standard of administrative process is readily implemented and would provide both the researchers and the Secretary clear guidance as to the course to be pursued.

WOMEN'S HEALTH

The legislation includes the provisions of H.R. 2507 regarding the inclusion of women and racial and ethnic minorities in clinical research. A full discussion of these provisions appears in the Conference Report and the House and Senate Committee reports that accompanied H.R. 2507 and this discussion remains an accurate description of these issues in this legislation and the legislative intent behind them.

In addition, S. 2899 contains further provisions regarding the guidelines to be established by the Director of NIH regarding this inclusion and the circumstances under which cost may be considered as a reason not to do so. The general rule provides that cost is not a permissible consideration for excluding women from a project or for excluding minorities from research. As was discussed fully in the reports accompanying H.R. 2507, the goal of such a general rule is to ensure that government-sponsored clinical research is used to improve the health of as many Americans as possible.

The authors of the legislation recognize, however, that there are limited circumstance in which a researcher seeks to study a population that does not include women and minorities for reasons that may include cost. Under terms of S. 2899, the guidelines established by the Director may allow cost to be considered in some circumstances, so long as data of comparable quality regarding the excluded populations will be obtained by other means.

In sum, these provisions are intended to ensure that research on diseases or conditions affecting both sexes will, in virtually all cases, produce results that are applicable regardless of gender. Such results in most cases will be available because women are included in trials as study participants. In those projects in which women are not included, similar results will be available because parallel research of comparable quality will be conducted or exists already. This principal is to be executed by the Director, both through specific authority to establish guidelines that recognize cost and general authority for designating inclusion as inappropriate.

If, for example, it is suggested that the cost of expanding the sample size to include a statistically useful number of women in a large trial on heart disease and aspiring is justification for excluding women from the trial, this legislation would allow the conduct of a men-only trial only if there are data of comparable quality already extant or being gathered for women. This showing of comparable data is, of course, the responsibility of the researcher applying for funding for a design that excludes women from the trial. (It should be noted that no change has been made from the original provisions allowing the Director general discretion over study design. For instance, if it is suggested that the inclusion of women is unworkable for non-cost reasons (e.g., a disease that affects women only rarely as breast cancer affects men only rarely), this legislation would not require the inclusion of women because it is impracticable.) The same basic provisions apply to the inclusion of minorities in clinical research, although the requirements apply to the general research portfolio and not to each project.

"Data of comparable quality" is understood to be information of similar utility in the development and use of clinical care. Thus, the development of theoretical application or models of a drug's utility in women is not comparable to a randomized trial of that drug with women as subjects because such theory cannot be turned to similar application. Conversely, if drug trials are already underway that will produce data on women, a similar trial using men need not include women also unless the men-only trial produce data not obtainable in the study in which women are participants. It is recognized that the question of "comparability" is a complex issue: Data gathered by different means may be of comparable worth in developing and using clinical care; data gathered by the same means but in different settings may be of unequal value. The authors of the legislation would expect the Director to develop general guidelines on this issue, as well as to evaluate carefully with the advisory panels each application for exclusion of subjects.

In addition, S. 2899 provides that, if there is substantial scientific data demonstration that there is no significant scientific difference between the genders or racial and ethnic groups, the Director may establish guidelines overriding the general requirement that women and minorities be included in trials. This may be considered to be a change from the assumptions made in the construction of research trials in the past: It has been reported by Congressional witnesses and in scientific journals that women and minority group members have often been excluded from trials unless there was an affirmative showing that they might respond differently to the conditions of the trial; in contrast, this legislation would generally require that women and minority group members be included unless there is an affirmative showing that they will not respond differently to the conditions of the trial. By reversing the presumption in this case, this legislation would reach more health conditions for more Americans and, it is hoped, provide more clinical applications and basic research knowledge.

PROTECTION OF HEALTH FACILITIES

The legislation also makes changes in the provisions of H.R. 2507 regarding the protection of health facilities. The new legislation deletes the authority for such an entity to pursue civil remedies in Federal court for damages resulting from violation of the statutory protections contained in these provisions. The legislation does not, however, affect rights to pursue a civil action that may otherwise exist under State or other Federal law. In addition, the legislation clarifies that existing State or Federal "whistleblower" protection laws are not altered or otherwise affected by the provision protecting health facilities. Finally, a conforming change is included regarding the elements of the crime of burglary for purposes of this legislation.

MINORITY HEALTH

The legislation establishes within the Office of the Director of NIH an Office of Research on Minority Health.

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. BENTSEN from the Committee on Finance:

S. 3230. An original bill to amend title 31 of the United States Code, to establish a Department of the Treasury Forfeiture Fund; placed on the calendar.

By Mr. PELL (by request):

S. 3231. A bill to implement the Protocol on Environmental Protection to the Antarctic Treaty, with annexes, done at Madrid October 4, 1991, and an additional annex done at Bonn October 17, 1991, enact a prohibition against Antarctic mineral resource activities, amend the Antarctic Conservation Act of 1978, and repeal the Antarctic Protection Act of 1990; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (by request):

S. 3231. A bill to implement the protocol on environmental protection to the Antarctic Treaty, with annexes, done at Madrid, October 4, 1991, and an additional annex done at Bonn, October

17, 1991, enact a prohibition against Antarctic mineral resource activities, amend the Antarctic Conservation Act of 1978, and repeal the Antarctic Protection Act of 1990; to the Committee on Foreign Relations.

ANTARCTIC ENVIRONMENTAL PROTECTION ACT

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to implement the protocol on environmental protection to the Antarctic Treaty, with annexes, done at Madrid, October 4, 1991, and an additional annex done at Bonn, October 17, 1991, enact a prohibition against Antarctic mineral resource activities, amend the Antarctic Conservation Act of 1978, and repeal the Antarctic Protection Act of 1990.

This proposed legislation has been requested by the Department of State, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the statement of purpose and need, the section-by-section analysis, and the letter from the Assistant Secretary of State for Legislative Affairs, which was received on August 6, 1992.

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

S. 3231

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

SEC. 101. SHORT TITLE.

This Act may be cited as the "Antarctic Environmental Protection Act of 1992."

TITLE I—AMENDMENT TO THE ANTARCTIC CONSERVATION ACT OF 1978 (16 U.S.C. 2401 ET SEQ.)

SEC. 102. FINDINGS POLICY, DESIGNATION AND PURPOSE.

Section 2 (16 U.S.C. 2401) is amended—

(1) by adding ", POLICY, DESIGNATION" after "FINDINGS" in the heading;

(2) in paragraph (a)(1) by striking "Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting" and inserting "Protocol and Environmental Protection to the Antarctic Treaty"; and by adding "the comprehensive protection of the Antarctic environment," after the words "firm foundation for";

(3) by striking the words in paragraph (a)(2) and inserting—"the protection of the Antarctic environment and dependent and associated ecosystems and the intrinsic value of Antarctica, including its wilderness and aesthetic values and its value as an area for the conduct of scientific research, in particular research essential to understanding the global environment, shall be fundamental considerations in the planning and conduct of all activities in the Antarctic Treaty area;";

(4) by striking existing paragraph (b) and inserting—

"(b) POLICY.—

"(1) It is the national policy of the Untied States that activities in Antarctica are to be planned and conducted so as to limit adverse impacts on the Antarctic environment and dependent and associated ecosystems and avoid—

"(A) adverse effects on climate or weather patterns;

"(B) significant adverse effects on air or water quality;

"(C) significant changes in the atmospheric, terrestrial (including aquatic), glacial or marine environments;

"(D) detrimental changes in the distribution, abundance or productivity of species or populations of species of fauna and flora;

"(E) further jeopardy to endangered or threatened species or populations of such species; or

"(F) degradation of, or substantial risk to, areas of biological, scientific, historic, aesthetic or wilderness significance.

"(2) It is the national policy of the United States that activities in Antarctica are to be planned and conducted on the basis of information sufficient to allow prior assessments of, and informed judgments about, their possible impacts on the Antarctic environment and dependent and associated ecosystems and on the value of Antarctica for the conduct of scientific research, taking full account of—

"(A) the scope of the activity, including its area, duration and intensity;

"(B) the cumulative impacts of the activity, both by itself and in combination with other activities in the Antarctic Treaty area;

"(C) whether the activity will detrimentally affect any other activity in the Antarctic Treaty area;

"(D) whether technology and procedures are available to provide for environmentally safe operations;

"(E) whether there exists the capacity to monitor key environmental parameters and ecosystem components so as to identify and provide early warning of any adverse effects of the activity and to provide for such modification of operating procedures as may be necessary in the light of the results of monitoring or increased knowledge of the Antarctic environment and dependent and associated ecosystems; and

"(F) Whether there exists the capacity to respond promptly and effectively to accidents, particularly those with potential environmental effects.

"(3) It is the national policy of the United States that regular and effective monitoring take place to allow assessment of the impacts of ongoing activities, including the verification of predicted impacts.

"(4) It is the national policy of the United States that regular and effective monitoring take place to facilitate early detection of the possible unforeseen effects of activities carried out both within and outside the Antarctic Treaty area on the Antarctic environment and dependent and associated ecosystems.

"(5) It is the national policy of the United States that activities in Antarctica be planned and conducted so as to accord priority to scientific research and to preserve the value of Antarctica as an area for the conduct of such research, including research essential to understanding the global environment.

"(6) It is the national policy of the United States that activities in Antarctica subject to U.S. jurisdiction take place in a manner consistent with the Protocol, and be modified, suspended or cancelled if they result in or threaten to result in impacts upon the Antarctic environment or dependent or associated ecosystems inconsistent with the Protocol."

(5) by adding a new paragraph (c) as follows—

"(c) DESIGNATION.—Antarctica is hereby designated as a natural reserve, devoted to peace and science;";

(6) by adding a new paragraph (d) as follows—

"(d) PURPOSE.—The purpose of this Act is to provide the legislative authority necessary to implement, with respect to the United States, the Protocol on Environmental Protection to the Antarctic Treaty, provide for the conservation and protection of the Antarctic environment and Antarctic flora and fauna, and preserve Antarctica for scientific monitoring and research."

SEC. 103. DEFINITIONS.

Section 3 (16 U.S.C. 2402) is amended—

(1) by striking paragraphs (1), (3), (5), (8), (10), (13) and (16);

(2) by renumbering paragraphs (2), (4), (6), (9), (11), (12), (14), (15) as paragraphs (1), (3), (5), (11), (13), (14), (16), (17) respectively;

(3) in paragraph (7), by striking ", other than any species regulated by the International Whaling Commission,";

(4) in renumbered paragraph (13), by adding "Antarctic" after the open quotation mark and before the term "specially protected area"; and by striking "(4)" at the end of the sentence and inserting "(3)";

(5) in renumbered paragraph (15), by striking "(5)" at the end of the sentence and inserting "(4)";

(6) in renumbered paragraph (16), by adding "or "Antarctic Treaty"" after the term ""Treaty""; and by adding "and any recommendations in effect thereunder" to the end of the sentence;

(7) in renumbered paragraph (17), by striking the words ", including the Government of the Northern Mariana Islands" and adding the words "the Commonwealth of the Northern Mariana Islands, any other commonwealth, territory or possession of the United States," after the word "Guam,"; and

(8) by adding the following new paragraphs:

"(2) The term "Committee for Environmental Protection" means the Committee for Environmental Protection established pursuant to Article 11 of the Protocol,";

"(4) The term "harmful interference" means to engage or attempt to engage in the following conduct—

"(i) flying or landing helicopters or other aircraft in a manner that disturbs concentrations of birds and seals;

"(ii) using vehicles or vessels, including hovercraft and small boats, in a manner that disturbs concentrations of birds and seals;

"(iii) using explosives or firearms in a manner that disturbs concentrations of birds and seals;

"(iv) willfully disturbing breeding or molting birds or concentrations of birds and seals by persons on foot;

"(v) significantly damaging concentrations of native terrestrial plants by landing aircraft, driving vehicles, walking on them, or by other means; and

"(vi) any activity that results in significant adverse modification of habitats of any native mammal, bird, plant or invertebrate.";

"(6) The term "native invertebrate" means any terrestrial or freshwater invertebrate, at any stage of its life cycle, which is des-

ignated as such by the Director under section 6(b)(1).";

"(8) The term "native plant" means any terrestrial or freshwater vegetation, including bryophytes, lichens, fungi and algae, at any stage of its life cycle (including seeds and other propagules), which is designated as such by the Director under section 6(b)(1).";

"(9) The term "nonnative species" means any species of animal or plant which is not native to Antarctica.";

"(10) The term "person" means an individual, partnership, corporation, trust, association, or other entity subject to the jurisdiction of the United States; and any department, agency, or other instrumentality of the Federal Government or of any State or local government, and any officer, employee, or agent of any such instrumentality.";

"(12) The term "Protocol" means the Protocol on Environmental Protection to the Antarctic Treaty, signed October 4, 1991, in Madrid, and all annexes thereto.";

"(15) The term "take" or "taking" means to kill, injure, capture, handle or molest, a native mammal or bird, or to remove or damage such quantities of native plants that their local distribution or abundance would be significantly affected, or to attempt to engage in any such conduct.";

SEC. 104. PROHIBITED ACTS.

Section 4 (16 U.S.C. 2403) is amended as follows:

(1) in paragraph (a)(1) by striking "United States citizen" and inserting "person";

(2) by striking paragraphs (a)(1) (A)-(E), and inserting the following:

"(A) to engage in any taking or harmful interference in Antarctica;

"(B) to introduce into Antarctica any nonnative species;

"(C) to enter any Antarctic Specially Protected Area; or

"(D) to discharge, dispose of or otherwise introduce any waste or pollutant within Antarctica, except as otherwise permitted by the Act to Prevent Pollution from Ships, 33 U.S.C. section 1901 et seq.;";

(3) in paragraphs (a) (2) and (3) by striking "United States citizen wherever located, or any foreign person while within the United States," and inserting "person";

(4) in paragraph (a)(4) by striking ", whether or not a United States citizen,";

(6) in the last sentence of paragraph (a), by striking the comma after the word "committed"; and by striking "to prevent the loss of human life" and inserting "involving the safety of human life or of ships, aircraft, or equipment or facilities of high value, or the protection of the environment".

SEC. 105. PERMITS.

Section 5 (16 U.S.C. 2404) is amended—

(1) in paragraph (e) by adding after the title "For Takings, Harmful Interference and Introduction of Non-Native Species";

(2) in paragraph (e)(1), to insert "authorizing a taking or harmful interference or the introduction of a non-native species" after "section";

(3) by amending paragraph (e)(1)(A)(ii) to read:

"(ii) if a taking or harmful interference is authorized, the manner in which such action must be accomplished (which manner must be determined by the Director to involve the least degree of pain and suffering practicable), the area in which it must occur, and the person who will take the action,";

(4) by amending the end of paragraph (e)(1)(A)(iii) to add "and";

(5) by amending the end of paragraph (e)(1)(A) to add the following:

"(iv) the species, numbers and, if appropriate, age and sex of non-native animals and/or plants to be introduced, and the reasons therefor; and the precautions to be taken to prevent escape or contact with native fauna and flora;"

(6) in paragraph (e)(2)(A), by striking "the taking" and inserting "a taking or harmful interference";

(7) in paragraph (e)(2)(A)(i)(I) by striking the word "or";

(8) in paragraph (e)(2)(A)(i)(II) by inserting the word "herbaria," before "zoological" and the words "and botanical" before "gardens," and by striking the word "and" at the end of the paragraph and inserting "or";

(9) by inserting a new paragraph (e)(2)(A)(i)(III) as follows—

"(III) to provide for unavoidable consequences of scientific activities, or of the construction and operation of scientific support facilities."

(10) by striking the text of paragraph (e)(2)(A)(ii) and inserting the following—

"(ii) shall ensure that—

"(I) no more native mammals, birds, or plants are taken than are strictly necessary to meet the purposes set forth in section 5(e)(2)(a)(i) above,

"(II) only small numbers of native mammals or birds are killed and in no case more native mammals or birds are killed from local populations than can, in combination with other permitted takings, normally be replaced by natural reproduction in the following season, and

"(III) the diversity of species, as well as the habitats essential to their existence, and the balance of the ecological systems existing within Antarctica are maintained."

(11) at the end of paragraph (e)(2)(B)(i), by striking "and";

(12) in paragraph (e)(2)(B)(ii), by adding "or recovery" after "survival", and adding "; and" at the end of the paragraph;

(13) at the end of paragraph (e)(2)(B), by adding the following:

"(iii) the taking involves nonlethal techniques, where appropriate.";

(14) by striking paragraph (e)(2)(C) and (D) and inserting the following—

"(C) Permits authorizing entry into any Antarctic Specially Protected Area may only be issued consistent with the provisions of the management plan prescribed under section 6(b)(3) for that Area.

"(D) Permits allowing the importation of non-native species—

"(i) shall not be issued, unless such importation is allowed under terms of the Protocol;

"(ii) shall require that, prior to the expiration of the permit, all non-native species, including any progeny, shall be removed from Antarctica or disposed of by incineration or equally effective means that eliminate risk to native fauna and flora;

"(iii) shall not permit the importation of dogs or live poultry or other living birds; and

"(iv) shall require that precautions be taken to prevent the introduction of microorganisms (e.g., viruses, bacteria, parasites, yeasts and fungi) not present in native fauna and flora.

"(3) No permit shall be required for the importation of food into Antarctica, provided that—

"(A) no live animals are imported for this purpose,

"(B) all plants and animal parts are kept under carefully controlled conditions and are disposed of in accordance with the provisions of this Act, and

"(C) before dressed poultry is packaged for shipment to Antarctica, it shall be inspected for evidence of disease, such as Newcastle's Disease, tuberculosis and yeast infection."

(15) by renumbering the second paragraph (e), and paragraphs (f) and (g), as paragraphs (f), (g) and (h), respectively;

(16) in renumbered paragraph (g)(1)(B) by striking the words "the purpose of this Act" and inserting "the purposes and provisions of this Act or the Protocol";

(17) at the end of renumbered paragraph (g)(1)(C) by adding "or the Protocol".

SEC. 106. REGULATIONS.

Section 6 (16 U.S.C. 2405) is amended—

(1) in paragraph 6(a) by striking the word "are" and inserting "the Director deems", and at the end of paragraph 6(a) by adding "and the Protocol";

(2) at the end of paragraph (b)(1)(B) by deleting "and";

(3) at the end of paragraph (b)(1)(C) by adding the word "and";

(4) after paragraph (b)(1)(C) by adding—

(D) "each species of invertebrate,"

(5) at the end of paragraph (b)(1) striking the term "in Antarctica through natural agencies of dispersal" and inserting "there seasonally through natural migrations."

(6) in paragraph (b)(2) by striking "Agreed Measures" and inserting "Protocol";

(7) in paragraphs (b) (3) and (4) striking the existing tests and inserting—

"(3) identify, as an Antarctic Specially Protected Area or Antarctic Specially Managed Area, each area approved by the United States in accordance with the Protocol, and prescribe a management plan for such site which is consistent with any management plan approved by the United States for such site in accordance with the Protocol";

(8) in paragraph (b)(5) striking the term "Agreed Measures" and inserting "Protocol";

(9) in paragraph (b)(6) by inserting the words "waste or" after the words "designate as" and by inserting after the second use of the word "Antarctica" the words ", or which the Director finds must be regulated under the Protocol;";

(10) in paragraph (b)(7) by inserting the words "waste or" after the words "disposal of";

(11) striking paragraph (b)(9), and adding the "and" to the end of paragraph (b)(8);

(12) renumbering paragraphs (b)(5), (6), (7), (8) and (10) as (4), (5), (6), (7) and (8), respectively;

(13) after paragraph (b)(10) by adding—

"(c) TIME PERIOD FOR REGULATIONS.—The regulations to be prescribed under subsection (b) shall be promulgated within 24 months of the enactment of this amendment."

SEC. 107. NOTIFICATION OF TRAVEL TO ANTARCTICA.

Section 7 (16 U.S.C. 2406) is amended to read as follows—

"(a) The Secretary of State shall, within 24 months of the enactment of this amendment, prescribe such regulations as are necessary and appropriate to implement, with respect to any person, paragraph 5 of article VII of the Treaty pertaining to the filing of advance notifications of expeditions to, and within, Antarctica.

"(b) The Secretary of State, in conjunction with the Director and with the Secretary of the department in which the Coast Guard is operating, shall, within 24 months of the enactment of this amendment, prescribe such regulations as are necessary and appropriate to require nongovernmental activities in Antarctica, including tourism, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Treaty, to provide for prompt and effective response action to such emergencies as might arise in Antarctica and to comply

with contingency plans in effect in Antarctica.

SEC. 108. ENVIRONMENTAL IMPACT ASSESSMENT.

Insert new section 8 as follows—

"The Secretary of State, in conjunction with the Chairman of the Council on Environmental Quality, shall, within 24 months of the enactment of this amendment, prescribe such regulations as are necessary and appropriate to implement the environmental impact assessment provisions of the Protocol (Article 8; Annex I) with respect to non-governmental activities in Antarctica, including tourism, for which the United States is required to give advance notice under paragraph 5 of article VII of the treaty."

SEC. 109. REPRESENTATION.

Insert new section 9 as follows—

"(a) The Secretary of State, with the concurrence of other appropriate federal officials, shall designate the United States representative to the Committee for Environmental Protection.

"(b) The United States representative shall receive no additional compensation by reason of service as such representative."

SEC. 110. CIVIL PENALTIES.

Section 8 (16 U.S.C. 2407) is renumbered as section 10 and is amended by—

(1) adding "or the Secretary of State" after "the Director" wherever it appears;

(2) in paragraph (a), by striking "$5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000" and inserting "$50,000"; and by striking "or to have violated any regulation prescribed under section 107";

(3) by adding a new paragraph as follows—

"(d) Whenever on the basis of any information, the Director or the Secretary of State determines that any person has violated or is in violation of any requirement of this Act or any regulation promulgated hereunder, the Director or the Secretary of State may commence a civil action in the appropriate United States District Court, pursuant to Section 13 of this Act, for appropriate relief, including a temporary or permanent injunction or to assess and recover a civil penalty not to exceed $50,000 per day for each past or current violation, or both."

(4) by renumbering paragraph (d) as paragraph (e), adding "s" after the word "subsection" and adding "or (d)" after "(a)".

SEC. 111. CRIMINAL OFFENSES.

Section 9 (16 U.S.C. 2408) is renumbered as section 11, and is amended as follows—

(1) in paragraph (a) by striking "willfully" and inserting "knowingly";

(2) in paragraph (b) by striking "of $10,000" and inserting "not less than $5,000 nor more than $50,000 per day of violation", by striking "one year" and inserting "five years" and by adding a new sentence as follows: "If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment."

SEC. 112. ENFORCEMENT.

Section 10 (16 U.S.C. 2409) is renumbered as section 12.

SEC. 113. JURISDICTION OF COURTS.

Section 11 (16 U.S.C. 2410) is renumbered as section 13.

SEC. 114. FEDERAL AGENCY COOPERATION.

(1) Section 12 (16 U.S.C. 2411) is amended by adding to the end of the sentence the words "; and any department or agency with expertise relevant to the conduct of United States activities in Antarctica shall also so cooperate with the Director".

(2) Section 12 is renumbered as section 14.

SEC. 115. RELATIONSHIP TO EXISTING TREATIES.

Section 13 (16 U.S.C. 2412) is renumbered as section 15.

Section 14 is renumbered as section 16.

TITLE II. PROHIBITION OF ANTARCTIC MINERAL RESOURCE ACTIVITIES; REPEAL OF ANTARCTIC PROTECTION ACT (16 U.S.C. 2461 ET SEQ.)

SEC. 201. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that the prohibition of Antarctic mineral resource activity will contribute to protection of the Antarctic environment and dependent and associated ecosystems by avoiding potential environmental degradation which could result from mineral resource activities.

(b) PURPOSE.—The purpose of this title is to provide the legislative authority necessary to implement the provisions of the Protocol relating to Antarctic mineral resource activity, including the prohibition of any activity relating to Antarctic mineral resources, other than scientific research, by persons subject to the jurisdiction of the United States.

SEC. 202. DEFINITIONS.

For the purposes of this title, the term—

(1) "Antarctica" means the area south of 60 degrees south latitude;

(2) "Antarctic mineral resource" means any nonliving natural nonrenewable resource (or part or product thereof) found in or recovered from Antarctica, including fossil fuels, rocks and minerals, whether metallic or nonmetallic, except that the term does not include ice, water, snow or any mineral resource removed prior to the date of enactment of this title;

(3) "Antarctic mineral resource activity" means collecting, removing or transporting, or prospecting for, or exploration or development of, an Antarctic mineral resource, except that the term does not include those activities that are undertaken in the course of and that are directly related to:

(i) scientific research;

(ii) construction, operation and maintenance of research stations, field camps or other such facilities; or

(iii) providing, and with the advance written consent of the recipient institution, an Antarctic mineral resource specimen to a museum or other institution with a similar public function;

(4) "Antarctic Treaty" means the Antarctic Treaty signed in Washington, DC, on December 1, 1959;

(5) "development" means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific Antarctic mineral resource deposits, including processing, storage and transport activities;

(6) "exploration" means any activity, including logistic support, the purpose of which is the identification or evaluation of specific Antarctic mineral resource deposits for possible development. The term includes exploratory drilling, dredging, and other surface or subsurface evacuations undertaken to determine the nature and size of mineral resource deposits and the feasibility of their development;

(7) "import" means to land on, bring into, or introduce into, or attempt to land on, bring into or introduce into, any place subject to the jurisdiction of the United States, including the 12-mile territorial sea of the United States, whether or not such act constitutes an importation within the meaning of the customs laws of the United States;

(8) "person" means any individuals, partnership, corporation, trust, association, or other instrumentality of the Federal Government or of any State or local government, and any officer, employee, or agent of any such instrumentality;

(9) "prospecting" means any activity, including logistic support, the purpose of which is the identification of Antarctic mineral resource potential for possible exploration and development;

(10) "Protocol" means the Protocol on Environmental Protection to the Antarctic treaty, signed October 4, 1991, in Madrid, and all annexes thereto;

(11) "Secretary" means the Secretary of Commerce;

(12) "United States" means the several states of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, any other commonwealth, territory or possession of the United States, and the Trust Territory of the Pacific Islands; and

(13) "Vessel subject to the jurisdiction of the United States" includes any "vessel of the United States" and any "vessel subject to the jurisdiction of the United States" as those terms are defined in section 303 of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. § 2432).

SEC. 203. PROHIBITED ACTS.

It is unlawful for any person to—

(1) engage in, provide assistance (including logistic support) to, or knowingly finance any Antarctic mineral resource activity;

(2) violate any provision of this title or any regulation promulgated pursuant to this title;

(3) ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of any Antarctic mineral resource which that person knows, or reasonably should have known, was recovered or otherwise possessed as a result of Antarctic mineral resource activity, without regard to the citizenship of the person that engaged in, or the vessel used in engaging in, the Antarctic mineral resource activity;

(4) refuse to permit any authorized officer or employee of the United States to board a vessel, vehicle or aircraft subject to the provisions of this Title for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulations promulgated pursuant to this title;

(5) forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (4);

(6) resist a lawful arrest or detention for any act prohibited by this section;

(7) interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section; or

(8) attempt to commit any act prohibited by this section.

SEC. 204. REGULATIONS.

The Secretary of Commerce, after consultation with the Secretary of State and other appropriate Federal officials, shall, within 24 months of the enactment of this title, prescribe such regulations as are necessary and appropriate to implement the provisions of this title, taking into account the Antarctic Treaty, any measures adopted thereunder, the Protocol and any awards issued thereunder by a competent tribunal, and including regulations distinguishing between prospecting or other prohibited activities and scientific research.

SEC. 205. CIVIL PENALTIES.

(a) ASSESSMENT OF PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with subsection (b) of this section, to have committed any act prohibited by section 203 of this title, shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $50,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent such information is reasonably available to the Secretary.

(2) The Secretary may compromise, modify, remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) of this section shall be conducted in accordance with section 554 of title 5. For the purposes of conducting any such hearing, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate district court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously sending a copy of such complaint, by certified mail to the Secretary, the Attorney General and the appropriate United States Attorney. The Secretary shall promptly file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title 5.

(d) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who may recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(e) CIVIL JUDICIAL PENALTY.—Whenever on the basis of any information, the Secretary determines that any person has violated or is in violation of any requirement of this Act or any regulation promulgated hereunder, the Secretary may commence a civil action in the appropriate United States District Court, pursuant to section 208(c) of this title, for appropriate relief, including a temporary or permanent injunction or to assess and recover a civil penalty not to exceed $50,000 per day for each past or current violation, or both.

(f) IN REM JURISDICTION.—Any vessel, vehicle or aircraft (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 203 of this Title shall be liable in rem for any civil penalty assessed for such violation under this section and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 206. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if he knowingly commits any act prohibited by section 203 of this Title.

(b) PUNISHMENT.—Any offense described in subsection (a) of this section is punishable by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than five years, or by both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer or employee of the United States described in section 208(b)(1) of this title, or places any such officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 per day of violation, or by imprisonment for not more than 10 years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both fine and imprisonment.

(c) FEDERAL JURISDICTION.—There is Federal jurisdiction over any offense described in subsection (a) of this section.

SEC. 207. CIVIL FORFEITURES.

(a) IN GENERAL.—Any vessel, vehicle or aircraft (including its gear, furniture, appurtenances, stores and cargo) used, and any Antarctic mineral resource (or the fair market value thereof) recovered or possessed, in any manner, in connection with or as a result of the commission of any act prohibited by section 203 of this title shall be subject to forfeiture to the United States. All or part of such vessel, vehicle or aircraft may, and all such Antarctic mineral resource (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States which has jurisdiction under section 208(c) of this title shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) of this section and any action provided for under subsection (d) of this section.

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained under subsection (d) of this section. The provisions of the customs laws relating to—

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeiture incurred, or alleged to have been incurred, under the provisions of this title, unless such customs law provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 208(c) of this title shall—

(A) stay the execution of such process; or

(B) discharge any property seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (ii) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court. Nothing in this paragraph may be construed to require the Secretary, except in the Secretary's discretion or pursuant to the order of a court under section 208(c) of this title, to release on bond any seized Antarctic mineral resource or other property or the proceeds from the sale thereof.

(2) Any Antarctic mineral resource seized pursuant to this Title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, it is a rebuttable presumption that all mineral resources found on board a vessel, vehicle or aircraft which is seized in connection with an act prohibited by section 203 of this Title are Antarctic mineral resources.

SEC. 208. ENFORCEMENT.

(a) RESPONSIBILITY.—The provisions of this title shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels) and facilities of any other department or agency of the United States in the performance of such duties.

(b) POWERS OF AUTHORIZED OFFICERS AND EMPLOYEES.—

(1) Any officer or employee of the United States who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any department or agency of the United States which has entered into an agreement with either Secretary under subsection (a) of this section) to enforce the provisions of this title and of any regulation promulgated pursuant to this title may—

(A) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States or by any court of competent jurisdiction;

(B) with or without a warrant or other process—

(i) search any person, place, vessel, vehicle, or aircraft subject to the provisions of this title where there are reasonable grounds to believe that evidence of a violation of this title will be found;

(ii) board, and search or inspect, any vessel, vehicle or aircraft subject to the provisions of this title;

(iii) seize any evidence relating to a violation of this title;

(iv) seize any Antarctic mineral resource (wherever found) recovered or possessed in violation of this title;

(v) seize any vessel, vehicle or aircraft subject to the provisions of this title (including its gear, furniture, appurtenances, stores and cargo) or other equipment used in, or that reasonably appears to have been used in a violation of this title.

(vi) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 203 of this title;

(C) offer and pay a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment or forfeiture of property for any violation of any provision of this title; and

(D) exercise any other lawful authority.

(2) Subject to the direct of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of this title may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(c) JURISDICTION OF COURTS.—The district courts of the United States shall have jurisdiction over any case or controversy arising under the provisions of this title. Any such court may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(d) LIABILITY FOR COSTS.—Any person assessed a civil penalty for, or convicted of, any violation of this title, shall be liable for the cost incurred in storage, care, and maintenance of any Antarctic mineral resource or other property seized in connection with the violation.

(e) PAYMENTS OF STORAGE AND OTHER COSTS.—Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury shall pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this title:

(1) the reasonable and necessary costs incurred in connection with the seizure and forfeiture of property pursuant to this title, including in providing temporary storage, care, and maintenance of such property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this title;

(2) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings; and

(3) to a qualifying person any reward offered pursuant to section 208 of this title.

(f) PROCEEDINGS UNDER OTHER LAWS.—Legal proceedings brought under any section of this title with respect to any act shall not be deemed to preclude proceedings with respect to such Act under any other provision of this title or any other law.

SEC. 209. RELATIONSHIP TO EXISTING TREATIES AND STATUTES.

(a) IN GENERAL.—Nothing in this title shall be construed as contravening or superseding the provisions of any international treaty, convention, or agreement, if such treaty, convention, or agreement is in force with respect to the United States on the date of enactment of this Act, or of any statute which implements such treaty, convention, or agreement.

(b) STATUTE.—For purposes of any Antarctic mineral resource, the provisions of this title prevail over any inconsistent provision of the Deep Seabed Hard Mineral Resources Act (Pub. L. 96-283, 30 U.S.C. 1401-1471.)

(c) REPEAL.—The Antarctic Protection Act of 1990 (Pub. L. 101-594, 16 U.S.C. 2461-2466) is repealed.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary, and to the Secretary of the Department in which the Coast Guard is operating, such sums as may be necessary for each of fiscal years 1993 and 1994 to carry out this title.

STATEMENT OF PURPOSE AND NEED

THE PROTOCOL

The Antarctic Treaty Consultative Parties adopted and opened for signature the Protocol on Environmental Protection to the Antarctic Treaty, with four annexes, on October 4, 1991, in Madrid. Twenty-five Consultative Parties have signed the Protocol, including the United States. The Protocol, and an additional annex, done at Bonn October 17, 1991, were transmitted by the President to the Senate for advice and consent to ratification on February 14, 1992. The draft bill contains proposed legislation to implement the Protocol.

The Protocol builds upon the Antarctic Treaty to extend and improve the Treaty's effectiveness as a mechanism for ensuring the protection of the Antarctic environment. It designates Antarctica as a natural reserve, devoted to peace and science, and sets forth environmental protection principles applicable to human activities in Antarctica that will be binding under international law. These include obligations to accord priority to scientific research and a prohibition of Antarctic mineral resource activities. The Protocol is intended to replace existing Treaty recommendations addressing the protection of the Antarctic environment, including the Agreed Measures for the Conservation of Antarctic Fauna and Flora. It does not affect other treaties in force in the Antarctic Treaty area to which the U.S. is a party, including the Convention on the Conservation of Antarctic Marine Living Resources, and the Convention on the Conservation of Antarctic Seals.

More detailed mandatory rules for environmental protection are incorporated in a system of annexes that forms an integral part of the Protocol. Specific annexes on environmental impact assessment, conservation of Antarctic fauna and flora, waste disposal and waste management, and the prevention of marine pollution were adopted with the Protocol. A fifth annex on area protection and management was adopted subsequently by the Antarctic Treaty Consultative Parties. The Protocol establishes a Committee for Environmental Protection to provide advice and recommendations to the Antarctic Treaty Consultative Meetings on the implementation of the Protocol.

The Protocol incorporates provisions to ensure effective compliance with its requirements, including compulsory and binding procedures for settlement of disputes relating to mineral resource activities, environmental impact assessment and emergency response action, as well as over the detailed rules included in the annexes.

THE DRAFT BILL

The draft bill is called the Antarctic Environmental Protection Act of 1992. Title I amends the Antarctic Conservation Act of 1978 (ACA), Pub. L. No. 95-541 (16 U.S.C. §§2401 et seq.), to bring the provisions of that Act into line with the new provisions of the Protocol and annexes. Title II repeals the Antarctic Protection Act of 1990, Pub. L. 101-594 (16 U.S.C. §§2461 et seq.), replacing the temporary provisions of that Act with a new prohibition on mineral resource activities in Antarctica that is consistent with the Protocol.

Title I of the draft bill amends the ACA to establish a more comprehensive statutory scheme for the conservation of Antarctic fauna and flora as set forth in the Protocol. Existing authority of the Director of the National Science Foundation ("NSF Director") to promulgate regulations to control waste disposal in Antarctica, and to protect and manage designated areas with great environmental sensitivity or scientific value, is also revised consistent with the Protocol. In addition, Title I expressly extends the NSF Director's current general authority to promulgate regulations to carry out any provision of the ACA, to cover any provision of the Protocol. This provision ensures that regulatory power will exist to address any environmental issues under the Protocol that may arise.

Title I provides for the Secretary of State to prescribe regulations, in conjunction with the Chairman of the Council on Environmental Quality, to implement the environmental impact assessment provisions of the Protocol with respect to non-governmental activities, including tourism, in Antarctica, and in conjunction with NSF and the Coast Guard, to require private persons to comply with the provisions of the Protocol related to emergency response action. These tasks can be carried out by the Department as part of its current responsibilities for gathering and circulating information about non-governmental activities in Antarctica.

Other aspects of the Protocol, including environmental impact assessment and emergency response requirements for the U.S. Antarctic Program (USAP), can be adequately implemented through existing legislative, executive and regulatory authority already applicable to Antarctica, and are not addressed in Title I. With the exception of sewage disposal which is included in the authority granted to the NSF Director to promulgate waste disposal regulations, implementation of the provisions of the Protocol concerning prevention of marine pollution is already provided for in the Act to Prevent Pollution from Ships, 33 U.S.C. §1901 et seq.

Civil and criminal penalties under the ACA are strengthened to increase the deterrent effect of the legislation.

Title II of the draft bill implements Article 7 of the Protocol, which states: "Any activity relating to mineral resources, other than scientific research, shall be prohibited." Title II repeals the Antarctic Protection Act of 1990, which was intended as an interim measure pending entry into force of an international agreement providing an indefinite

ban on Antarctic mineral resource activities. Article 7, which has no termination date and is not reviewable for fifty years following entry into force of the Protocol, constitutes such an indefinite ban.

Title II prohibits Antarctic mineral resource activities by persons subject to the jurisdiction of the United States. The prohibition covers prospecting, exploration and development activities, as well as collecting, removing or transporting such resources. Activities exempted from the prohibition are those directly related to scientific research, construction, operation and maintenance of facilities, and provision of mineral resource specimens for museums and similar institutions. Title II provides for implementation by the Secretary of Commerce and authorizes the Coast Guard to exercise certain enforcement powers.

SECTION-BY-SECTION ANALYSIS

Section 101. Short title

The short title of the bill is the "Antarctic Environmental Protection Act of 1992."

TITLE I—AMENDMENT TO THE ANTARCTIC CONSERVATION ACT OF 1978

Section 102. Findings, policy, designation and purpose

The bill amends the Findings and Purpose section of the Antarctic Conservation Act of 1978 ("ACA"), which was enacted to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, to conform with the Protocol.

The bill adds a new paragraph (b) incorporating the environmental principles of Article 3 of the Protocol as a statement of U.S. national policy.

The bill also adds a new paragraph (c) to designate Antarctica as a natural reserve, devoted to peace and science, in conformity with Article 2 of the Protocol.

Section 103. Definitions

The bill amends the Definitions section of the ACA to conform with the Protocol. The definitions include language from specific provisions of Annex II (Conservation of Antarctic Fauna and Flora).

The definition of the United States is amended to reflect changes since the ACA was adopted in 1978.

The definition of "citizen" is replaced with a definition of "person," following the example of the Antarctic Marine Living Resources Convention Act of 1984 ("AMLR"). The bill applies to any natural or corporate person subject to the jurisdiction of the United States, including Federal, State or local government entities.

Section 104. Prohibited Acts

The bill amends the Prohibited Acts section of the ACA to conform with the Protocol, and to simplify its scope of applicability to all "persons" as defined in section 103.

Paragraph (a)(2)(E) of the ACA, that makes it a prohibited act to "discharge, or otherwise dispose of, any pollutant within Antarctica," is broadened. The bill makes it a prohibited act to "discharge, dispose of or otherwise introduce any waste or pollutant within Antarctica, except as otherwise permitted by the Act to Prevent Pollution from Ships ("APPS"), 33 U.S.C. §1901 *et seq.*" The broader scope of this provision is consistent with the Protocol and also implements Article 6 of Annex IV (Prevention of Marine Pollution), which prohibits sewage discharge and is the only provision of Annex IV not already implemented by APPS. The reference to APPS is intended to make clear that, consistent with Article 14 of Annex IV, the bill does not go beyond the provisions of APPS where APPS expressly implements the provisions of the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto.

Section 105. Permits

The bill amends the Permits section of the ACA to conform with the Protocol, in particular the detailed provisions of Annex II (Conservation of Antarctic Fauna and Flora).

Paragraphs (g)(1) (B) and (C) are amended to clarify that the Director may modify, suspend or revoke any permit where there is a change in conditions that makes the permit inconsistent with the Protocol, or a violation of any provision of the Protocol.

Section 106. Regulations

The bill amends paragraph (a) of the ACA (general regulatory authority) to clarify that the Director is given the discretion to promulgate regulations necessary and appropriate to implement the provisions of the Protocol as well as the ACA. This provision authorizes the Director, after consultation with the Secretary of State and other appropriate Federal officials, to issue regulations to cover any activities not already specifically covered by the amended ACA.

The bill amends paragraph (b) of the ACA (specific regulatory authority) to conform with the Protocol, in particular the provisions of Annex II (Conservation of Antarctic Fauna and Flora), Annex III (Waste Disposal and Waste Management), and Annex V (Area Protection and Management). The bill adds a requirement that all regulations under this paragraph be promulgated within 24 months of its enactment into law.

The Director has published proposed regulations governing waste disposal and waste management by the USAP and by private persons that take into account the new rules of the Protocol. Minor revisions may be necessary following passage of the proposed bill. Current regulations implementing the Agreed Measures for the Conservation of Antarctic Fauna and Flora, including the current system of Antarctic protected areas, will be revised following passage of the proposed bill, and will apply to the USAP and private activities.

Section 107. Notification of travel to Antarctica

In paragraph (a), the bill replaces "citizen" with "person" as defined in section 103, and better conforms the text of section 7 of the ACA with Article VII (5) of the Treaty.

In paragraph (b), the bill authorizes the Secretary of State, in conjunction with the NSF Director and the Secretary of the department in which the Coast Guard is operating, to prescribe regulations to require non-governmental activities, including tourism, for which the United States must provide advance notification under Article VII (5) of the Antarctic Treaty, to provide for prompt and effective emergency response action and to comply with contingency plans in effect in Antarctica.

The bill adds a requirement that all regulations under this section be promulgated within 24 months of its enactment into law.

Section 108. Environmental impact assessment

The bill adds a new section providing for the Secretary of State, in conjunction with the Chairman of the Council on Environmental quality, to prescribe such regulations as are necessary and appropriate to implement the environmental impact assessment provisions of the Protocol (Article 8 and Annex I) for non-governmental activities, including tourism, for which the United States must provide advance notification under Article VII (5) of the Treaty. It is anticipated that these regulations will incorporate time periods allowing sufficient time for consultations and other procedures as required by the Protocol. The bill includes a requirement that such regulations be promulgated within 24 months of its enactment into law.

Authority to issue regulations covering U.S. government activities in Antarctica is provided in Executive Order 12114 (Jan. 4, 1979). Pursuant to this authority, the Director of NSF has published proposed regulations for the U.S. Antarctic Program ("USAP") on environmental impact assessment that take into account the new rules of the Protocol. These proposed regulations are currently under review prior to their publication as a final rule.

Section 109. Representation

The bill adds a new section providing for the Secretary of State, with the concurrence of appropriate agency officials, to appoint the U.S. representative to the Committee for Environmental Protection created under the Protocol.

Section 110. Civil penalties

Section 8 of the ACA is amended to give the Secretary of State authority to conduct hearings and assess administrative penalties for violations of section 4 involving regulations promulgated under sections 7 and 8. The reference to section 7 is deleted as redundant.

A new section (d) is added to give the NSF Director and the Secretary of State the option of seeking civil judicial penalties, including injunctive relief, for violations of the Act direct from the U.S. District Court. This option would be useful in cases where urgent measures are necessary to prevent imminent harm, or where it is otherwise not appropriate to conduct an administrative hearing.

The maximum penalty under this section is increased to $50,000 per day per violation to be in conformity with contemporary legislation.

Section 111. Criminal offenses

Section 9 of the ACA is amended to increase the maximum penalties for criminal violations to the felony level. This should provide a higher deterrent effect for would-be violators, and reflects the greater protection provided by the Protocol to the important environmental and scientific values in Antarctica. The new penalties are in conformity with contemporary federal criminal legislation.

Section 112. Enforcement.

Section 113. Jurisdiction of Courts.

Section 114. Federal Agency Cooperation.

Section 115. Relationship to Existing Treaties.

Sections 110–115 of the bill renumber sections 8–13 of the ACA.

TITLE II—ANTARCTIC MINERAL ACTIVITY PROHIBITION ACT OF 1992

Section 201. Findings and purpose

The bill describes the need for a prohibition on mineral resource activities to protect the Antarctic environment and dependent and associated ecosystems. New legislation is necessary for this purpose because the existing prohibition on Antarctic mineral resource activities, found in section 4 of the Antarctic Protection Act of 1990 (16 U.S.C. §2463), will expire when the Protocol comes into force for the United States.

Section 202. Definitions

The bill makes clear that all mineral resource-related activities are included in the

prohibition, with the exception of scientific research, the construction, operation and maintenance of stations and similar facilities, and the provision of mineral resource specimens for museums and similar institutions. In addition to prospecting, exploration and development activities, the bill specifies that collecting, removing and transporting Antarctic mineral resources are prohibited activities. This is intended to reach collection of mineral resources for souvenirs and for other private purposes not included in the exemptions. Collection for a museum or similar institution is only permitted where advance written consent is obtained from that institution.

The definitions of "prospecting", "exploration" and "development" are based on existing definitions in the Antarctic Protection Act and are intended to be construed broadly.

The definition of "person" is also intended to apply broadly to any natural or corporate person subject to the jurisdiction of the United States, following the definition in the Antarctic Living Marine Resources Convention Act ("AMLR") (16 U.S.C.§2432(7)). Governmental entities are included.

The definition of "import" is based on the similar definition in AMLR, which includes importation into the territorial sea of the United States. The definition is modified to clarify that "any place subject to the jurisdiction of the United States" includes the 12-mile territorial sea of the United States.

Section 203. Prohibited acts

This section of the bill specifies the applicable prohibited acts. These include not only engaging in Antarctic mineral resource activity, but also providing assistance (including logistic support), and providing financing for an activity which that person knows is an Antarctic mineral resource activity.

Consistent with the purpose of prohibiting any activity relating to Antarctic mineral resources to the extent consistent with U.S. jurisdiction, paragraph 3 of this section also prohibits specified acts, with regard to an Antarctic mineral resource, by a person (subject to the jurisdiction of the United States) who knows or reasonably should have known that such resource was recovered or possessed as a result of Antarctic mineral resource activity, without regard to the nationality of the person or the vessel used in the Antarctic mineral resource activity.

Thus, for example, a person who imports into the United States an Antarctic mineral resource which that person knows was recovered (by anyone) as a result of an Antarctic mineral resource activity, would be subject to enforcement action. A similar provision with regard to Antarctic living marine resources is found in AMLR (16 U.S.C. §2435(3)).

Section 204. Regulations

This section authorizes the Secretary of Commerce to promulgate regulations necessary and appropriate to implement the Title, taking into account the Antarctic Treaty, any measures adopted thereunder, the Protocol and any awards that may be issued thereunder by a competent tribunal.

Section 205. Civil Penalties.

Section 206. Criminal Offenses.

Section 207. Civil Forfeitures.

Section 208. Enforcement.

The provisions of sections 205 through 208 of the bill, relating to civil penalties, criminal offenses, civil forfeitures and enforcement are principally based on relevant provisions in the Magnuson Fishery Conservation and Management Act (16 U.S.C. §§1858-1861; "Magnuson Act"). These provisions are the most appropriate model because they have most recently been amended and refined to take into account legal developments.

The civil penalty of $50,000 in section 205 is derived from Title III of the Marine Protection, Research, and Sanctuaries Act (16 U.S.C. §1437). It is higher than that provided by AMLR, but lower than the Magnuson Act.

Section 207 includes a provision that any vessel, aircraft or vehicle used in connection with an act prohibited by section 203 of the bill is subject to forfeiture to the United States pursuant to section 207. This provision is applicable to any vessel, vehicle or aircraft to the extent the United States exercises jurisdiction over it.

Section 209. Relationship to existing treaties and statutes

This section clarifies the relationship of Title II to existing treaties and statutes. Subsection 209(a) is based on AMLR. Subsection 209(b) is principally intended to assure that the Deep Seabed Hard Mineral Resources Act is not construed to authorize prospecting or the issuance of authorizations to engage in deep seabed mining in Antarctica. Subsection 209(c) repeals the Antarctic Protection Act, which expires upon entry into force of the Protocol for the United States, and is therefore superseded by this bill.

Section 210. Authorization of appropriations

This section authorizes the appropriation of funds to the Secretary of Commerce and the Secretary of the Department in which the Coast Guard is operating for two years to carry out the Title.

U.S. DEPARTMENT OF STATE,
Washington, DC, August 6, 1992

DEAR MR. PRESIDENT: I have the honor to transmit for the consideration of the Congress a draft bill, called the Antarctic Environmental Protection Act of 1992, implementing the Protocol on Environmental Protection to the Antarctic Treaty, and four annexes thereto, done at Madrid on October 4, 1991, and an additional annex done at Bonn on October 17, 1991. The Protocol, with all five annexes, was transmitted by the President to the Senate on February 14, 1992, for advice and consent to ratification.

Title I of the draft bill amends the Antarctic Conservation Act of 1978 (16 U.S.C. §2401 *et seq.*), to bring it into line with the Protocol and annexes. Title II repeals the Antarctic Protection Act of 1990 (16 U.S.C. §2461 *et seq.*), replacing it with a new prohibition on mineral resource activities in Antarctica that is consistent with the Protocol.

We are advised by the Office of Management and Budget that there is no objection to our submission of this legislative proposal to the Congress, and that its enactment would be in accord with the President's program.

Sincerely,

JANET G. MULLINS
Assistant Secretary, Legislative Affairs.●

ADDITIONAL COSPONSORS

S. 767

At the request of Mr. SANFORD, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 767, a bill to designate certain lands in the State of North Carolina as wilderness, and for other purposes.

S. 1372

At the request of Mr. GORE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from Indiana [Mr. COATS], the Senator from Mississippi [Mr. COCHRAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1931

At the request of Mr. STEVENS, the names of the Senator from Delaware [Mr. ROTH] and the Senator from Texas [Mr. GRAMM] were added as cosponsors of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 2385

At the request of Mr. RIEGLE, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2385, a bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes.

S. 2667

At the request of Mr. HEFLIN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor 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.

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2667, supra.

S. 2707

At the request of Mr. RIEGLE, the names of the Senator from Wisconsin [Mr. KOHL], the Senator from Missouri [Mr. DANFORTH], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2714

At the request of Mr. SANFORD, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2714, a bill to amend the Internal Revenue Code of 1986 to assist in the recruitment and retention of mathematics and science teachers, to provide matching funds for the promotion of mathematics or science secondary schools, and for other purposes.

S. 2810

At the request of Mr. GORE, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2835

At the request of Mr. HATCH, the names of the Senator from South Carolina [Mr. THURMOND], the Senator from Oklahoma [Mr. NICKLES], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2835, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish provisions regarding the composition and labeling of dietary supplements.

S. 2837

At the request of Mr. HARKIN, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Utah [Mr. HATCH], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. RIEGLE], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2837, a bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

S. 2904

At the request of Mr. MURKOWSKI, the names of the Senator from Utah [Mr. GARN], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 2904, a bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Forces.

S. 2949

At the request of Mr. KENNEDY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 2952

At the request of Mr. METZENBAUM, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 2952, a bill to establish a grant program under the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by individuals under the age of 16.

S. 2953

At the request of Mr. METZENBAUM, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Indiana [Mr. LUGAR] were withdrawn as cosponsors of S. 2953, a bill to amend the Endangered Species Act of 1973 to clarify citizen suit provisions, and for other purposes.

S. 3008

At the request of Mr. ADAMS, the names of the Senator from Michigan [Mr. RIEGLE] and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 3008, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

S. 3117

At the request of Mr. DOLE, the names of the Senator from Aiabama [Mr. HEFLIN] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 3117, a bill to amend title XVIII of the Social Security Act to enhance certain payments made to medicare-dependent, small rural hospitals.

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 330

At the request of Mr. KENNEDY, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 330, a joint resolution to designate March 1993 as "Irish-American Heritage Month."

SENATE JOINT RESOLUTION 333

At the request of Mr. DECONCINI, the names of the Senator from California [Mr. CRANSTON] and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 333, a joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Concurrent Resolution 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.

AMENDMENTS SUBMITTED

UNITED STATES-CHINA ACT OF 1992

KERRY (AND SMITH) AMENDMENT NO. 2985

Mr. KENNEDY (for Mr. KERRY, for himself and Mr. SMITH) proposed an amendment to the bill (H.R. 5318) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, as follows:

On page 19, after line 19, insert the following new paragraph and redesignate the succeeding paragraph accordingly:

"(4) is cooperating with the United States in efforts to account for United States military or other government personnel taken prisoner, missing in action or otherwise unaccounted for as a result of their service in—

(A) the Korean conflict; or

(B) the Vietnam conflict."

ADDITIONAL STATEMENTS

IN RECOGNITION OF D.W. DEMPSEY

• Mr. PRYOR. Mr. President, today I stand to recognize D.W. Dempsey of Huntsville, AR, and his plan to speed up emergency service, especially to individuals in rural communities outside of 911 emergency service. This plan, known as the Dempsey plan, could be a very helpful outlet which could save lives.

As we all know, the emergency service profession [EMS] is a vital part of our society. If the members of this profession are unable to reach their destination within a certain amount of time, lives can be lost. The Dempsey plan is a simple, time-saving plan that would be easy to implement and be very effective.

In many emergency situations, the individual calling for help is unable to give accurate directions to their location to the dispatcher. Everyone in our society is bound by the law to file county taxes. On such tax forms there lists the words "town," "range," and "section" with appropriately assigned two digit numbers which represent the exact location of a residence. If each household would simply register these three numbers on the inside of their telephone receiver, they could relay the numbers to the dispatcher and the emergency vehicle could be sent immediately. People who live outside of the 911 service must take the responsibility to record these numbers and remember to use them.

As I have stated, the Dempsey plan is a very easy system that could benefit

all 50 States. There is a large concern for emergency assistance, and the rural areas in our country are in great need for a service such as this.

Mr. President, I must graciously thank D.W. Dempsey, officials, and citizens of Madison County for bringing this to my attention. They have done a great deal to see that this beneficial plan does not go unnoticed. Special thanks to Mr. Dempsey for his continual efforts. The Dempsey plan would not only help emergency personnel, but it could give some people the chance to keep something very dear to them—life.●

TRIBUTE TO BRAD RICHARDSON PRESIDENT OF THE GREATER LOUISVILLE ECONOMIC DEVELOPMENT PARTNERSHIP

● Mr. McCONNELL. Mr. President, I rise today to recognize a fellow Kentuckian for his outstanding contributions to my home State. Brad Richardson was recently named president of the Greater Louisville Economic Development Partnership. Mr. Richardson comes from a behind-the-scene position as senior vice president of the partnership to this more visible position, and I am confident he will do a tremendous job.

Mr. Richardson has made a career out of attracting businesses to the Commonwealth of Kentucky. He previously was an industrial recruiter in the commerce cabinet during the administration of John Y. Brown. In his current position he will be responsible for luring national and international corporations to the Louisville area. He oversees a staff of eight with an annual budget of $1.2 million. Mr. Richardson is not daunted by his new-found exposure, rather he is intrigued by the challenges it presents.

When asked about his upcoming task Mr. Richardson said that his "challenge is to be more helpful and creative than the next guy. It is a challenge, and things don't happen quickly." Yet he doesn't feel the need to make drastic changes; rather he will continue to try and diversify the economy of the Louisville area as well as encourage companies currently located in the Louisville area to expand.

Mr. President, I pay tribute as well as wish much success to Brad Richardson. I also ask that an article from the August 17, 1992, Business First be included in the RECORD.

The article follows:

NEW POSITION BRINGS RICHARDSON OUT OF SHADOWS

(By Rachael Kamuf)

Brad Richardson has headed the Greater Louisville Economic Development Partnership for less than two months and may not be as well known as his predecessors, but is by no means a novice to the organization.

Richardson, 43, was senior vice president of the Partnership for three years until he was tapped to succeed Crit Luallen as president. Yet, in that role and during the six years he was involved in promoting the entire state of Kentucky as a place for national and multinational corporations to do business, Richardson purposely stayed behind the scenes.

"Brad wasn't in the light. He didn't have the profile I did. But without Brad, I wouldn't have had the successes I had," says Luallen, who left Louisville in June to become secretary of the Kentucky Tourist Cabinet. "He was the glue that held the business-attraction side together."

Now he has more management duties, overseeing marketing of the Louisville area as an attractive business location, as well as a responsibility for putting together the right package to entice individual companies.

He doesn't work alone; eight others are employed at the Partnership, which has an annual budget of $1.2 million. It does mean, however, that the tall, lanky former club professional golfer is in the spotlight as he has never been before.

The experience may be new for him, but the transition has been graceful, according to his colleagues who have applauded the Partnership board's decision to promote Richardson.

Robert Gayle, president of the Louisville Area Chamber of Commerce says: "I have always found Brad to be very professional in dealing with prospects. Now I have seen another side of him. He is articulate when he speaks to different groups on different subjects, and he is decisive when a decision needs to be made."

The novelty of such public exposure doesn't particularly excite Richardson. "Being behind the scenes doesn't threaten me. Me bring the focus is not what this is all about," says Richardson, who is thrilled more by the intricacies of business attraction and retention.

"The challenge is to be more helpful and creative than the next guy," he adds. "It is a challenge, and things don't happen quickly."

Richardson says he has made some minor alterations since becoming president, but has no plans for major overhauls in the operation of the group.

"I don't see drastic changes ahead. That may not be visionary, but the original vision was a worthy one, and meeting those goals is quite a task," Richardson says. "We want to continue to diversify the economy of this area."

He doesn't limit his outlook to luring new employees either. Richardson is as equally enthused about the potential that companies already located here offer for growth.

As an example, he referred to Ford Motor Co.'s announcement last month that it will follow through with plans to spend $650 million to expand its truck production here. To increase the capacity at the Kentucky Truck Plant, Ford will hire 1,400 new employees.

"There are so many factors you can't control. Perseverance is the key," says Richardson, noting that the roots of the recent Ford decision date back to the mid-1980s, when the state put up $10 million to help the company retrain in Louisville workers.

"The competition was intense. We were told there either had to be an upgrading of skills or jobs would be lost to other Ford plants," he says. "Ford didn't promise new jobs then, but we are seeing the results now. Ford, the state and the community proved it can be done in Louisville, Ky."

Paul Thistleton, director of the Louisville-Jefferson County Office of Economic Development, says Richardson's perspective on the Partnership's agenda speaks well of his outlook on the future.

"We need to continue the momentum. He will be very effective," says Thistleton.

As its name implies, one of the objectives of the organization is for governments and businesses in the entire seven-county metropolitan areas to join forces to promote the region. Richardson and other key officials have done more than pay lip service to that goal, says Darrell Voelker, executive director of the Harrison County, Ind., Chamber of Commerce.

"I was truly delighted when he was named president," Voelker says. "He has shown us that the Partnership wanted to work with us. He showed up in Corydon (Ind.) at 4 o'clock on a Saturday afternoon to meet with a prospect. . . . Without the Partnership, there have been prospects that would not even have looked at us."

Thomas Meeker, chairman of the partnership's executive board, says Richardson was the unanimous choice to replace Luallen. A national search was considered, but that idea was scotched after the executive committee talked with Richardson, who is being paid about $100,000 a year.

Meeker says: "It would have been a useless exercise to go outside when we had the best guy sitting in front of us."

Richardson's training for his current job actually began in a bank in his hometown of Elizabethtown, Ky. He spent five years there as a loan officer.

He took the job after graduating in 1974 from Georgetown College in Central Kentucky. During his time at Georgetown, Richardson earned a spot on the honor roll for two years while majoring in political science and business administration, and working full time.

Although it has been nearly two decades since he was a vice president of consumer lending at the bank, Richardson says the experience has proven worthwhile in discussing financial concerns with prospective employers.

Frankfort, Ky., however, was where he truly honed what his associates refer to as his impressive economic-development skills.

He began as an industrial recruiter after a friend, Bruce Ferriell, asked him to join the Commerce Cabinet in the administration of Gov. John Y. Brown. "We were looking for bright, energetic, talented people," says Ferriell, then Commerce's legal counsel. "He's bright and a quick learner. I told him, 'This would be perfect for you.'"

Richardson wasn't so sure. "My initial reaction was, I don't want to be a bureaucrat pushing papers," he recalls.

Ferriell, now corporate counsel and secretary of Andalex Resources Inc., persevered, and in 1981 Richardson became an economic-development coordinator.

To his relief, he found that he enjoyed recruiting industries to the commonwealth. In fact, Richardson says, "I loved it."

Bruce Lunsford, chairman of Vencor Inc., was Brown's commerce secretary. He remembers the team of "young aggressive marketing types—just like IBM," and how Richardson stood out as "one of the hot shots."

The two have kept up with each other over the years, and Lunsford, whom Richardson refers to as his mentor, foresees great things ahead for his former protege. "There is no frontier for him. He is tenacious. He doesn't take no for an answer and then go on. He has the background to be a success."

Richardson's "education" in economic development took a different form in 1984 when

he became director of the Kentucky Tomorrow Futures Commission, which was set by then-Lt. Gov. Steve Brashear to map out a long-term strategy to prepare the state for the 21st Century.

Dealing with futuristic concepts was exciting, recalls Richardson. He says it also taught him how education, work-force training and social programs are related to developing a diverse economic base.

Richardson left the commission a year later when its report to Brashear was finished and rejoined the Commerce Cabinet as Director of Industrial Development and Marketing.

Again he was involved in the day-to-day recruitment of new industries to Kentucky.

He was part of the team that helped convince Budd Co. to locate a plant to make auto parts in Shelby County. "It was a very competitive situation," and Shelbyville could have lost out to Seymour, Ind., he says.

Budd wanted to be located in an industrial park and Shelbyville's was not large enough for the plant the German-owned company was proposing to build.

The state acquired additional land, turned it over to the Shelby County Industrial Foundation, and worked with the Kentucky Highway Department and local governments to build access roads. Utility companies also became involved to meet Budd's construction schedule.

Richardson calls the process a "classic example" of teamwork, an important element to any economic development endeavor.

In his years in Frankfort, not every project turned into a success story like the Budd venture. One of the most publicized Cinderella-before-the-ball stories was the state's second-place finish to Tennessee for General Motors Corp.'s Saturn plant.

But, Richardson points out, the work on Saturn was not in vain. "It made everyone more savvy. It was good practice.

To illustrate, he said, the lessons learned in dealing with Saturn helped Kentucky land the larger Toyota Motor Co. facility in Georgetown.

"It is a roller coaster," he says. "One minute, you are up and the next, you are down. Then you cry for a few minutes, then get up and take off again."

Richardson learned that lesson from a different angle in 1987 when he left state government to become the Kentucky, Kansas, Missouri and Southern Indiana sales representative for The Binswanger Co., a Philadelphia real estate firm that specializes in industrial properties.

He took the job for two reasons. One was an opportunity to sell real state, which he had been considering for some time, and to make more money to support his family.

The experience only reinforced his belief that it "takes 100 contacts to make three or four sales," says Richardson, who still has a Realtor's license. It also taught him that perseverance takes on a different meaning when a person isn't backed by the auspices of state government.

"Getting in the door is always the challenge. When the governor of Kentucky writes a letter—doors open. When you walk in and say, 'Hi, I'm Brad Richardson,' they give you a cup of coffee—if you are lucky—and say, 'There is the door.'"

The Binswanger job came along at about the same time the foundation was being laid for the quasi-public organization that became the Greater Louisville Economic Development Partnership.

In fact, Richardson was approached by Jim Roberson—president of the Louisville chamber at the time and one of the driving forces behind the effort to raise $10 million from public and private sources to lure new businesses to this area—about signing on.

No formal employment offer was made, however, because the group was still being organized.

Meanwhile, Richardson accepted the position with Binswanger.

His circumstances had changed by 1989 when Luallen called Richardson and asked if he would be interested in taking charge of the Partnership's business-attraction section.

He says family considerations made up his mind for him, although it meant a cut in income.

His three daughters from his first marriage—Dawn, now 24, Stephanie, 22, and Carrie, 20,—had asked their father to relocate to Louisville, where they were living, from Frankfort so they make their home with him.

"That says a lot about him," Leigh Richardson says of her husband of seven years. "He was at a point where he was making quite a bit of money. But coming here meant he could stay home and be with his family."

"He doesn't regret it. It was a good move for us. Being the objective observer I am, it was also good for Louisville," she adds.

Tom Tyce, a longtime friend who lives in Hillsboro, Ohio, also talked about Richardson's move to Louisville, saying it was a reflection of his strong personal values. "He is honest, warm, loving and a great father. What you see is Brad Richardson."

Richardson describes himself as "personally, sort of boring." Years ago, before his "knees and ankles gave out," he rode a bicycle as many as 110 miles a week. Now he walks the family dog, a 110-pound giant Schnauzer, twice a day for exercise.

The family menagerie also includes three cats, Chopin, Mozart and Trucco. The latter was named by his daughter, Dawn, but the others' names reflect his and his wife's interest in classical music.

Richardson also likes rock 'n' roll, but his passion is golf. "I used to be pretty good," says the former scratch player who managed the Elizabethtown Country Club for a year to fulfill his fantasy of being a club golf pro.

He passed the player's test, hitting the prescribed score for the course while carrying his own golf clubs, "which I could do back then." Now, Richardson, who sports a six handicap, prefers to use a cart.

Luallen says the only time she ever saw Richardson's commitment to putting the customer first waver was during a golf outing.

The occasion, she says, was a tournament sponsored by the Partnership and Jefferson County Judge-Executive David Armstrong for managers of Japanese companies that have located here.

When play ended, Richardson shared the victory with his three partners and carried away the trophy for the longest drive. "He didn't hold back. He takes his golf very seriously," Luallen says.

He is also very serious about the Partnership. Richardson says he has been intrigued with the concept since his first discussions with Roberson and was delighted to become a part of it.

"I had wanted to do this. The opportunity just hadn't presented itself. Well, opportunity knocked, and I answered."

At the same time, he says, he is grateful for the lessons he's learned as a real estate broker. Now, Richardson says, he has a better understanding of what a company faces when sites are being surveyed for a possible expansion or relocation.

He says: "It helped me tremendously. I know how consultants work. I know corporate mentalities . . . what the hot buttons are."

Brian de St. Croix, executive director of the Southern Indiana Economic Development Council, says Richardson—"the consummate professional—is very knowledgeable of the realities of the economic development world. Brad has the benefit of lengthy hands-on experience. That is a real plus. Not only for the Partnership, but for the companies that would be looking at this area."

Meeker, the Partnership chairman, shares de St. Croix's faith in Richardson.

"Brad has an appetite for growth. He is a risk taker and is willing to work hard. One of these days, we will see him at the lead of bringing a major company to this area."

BIO: BRAD RICHARDSON

Title: President, Greater Louisville Economic Development Partnership.

Age: 43

Hometown: Elizabethtown, Ky.

Education: Bachelor of arts degree, Georgetown College, Georgetown, Ky.

Family: Wife, Leigh; daughters: Dawn, 24, Stephanie, 22, Carrie, 20.•

CRAZY HORSE MALT LIQUOR

• Mr. ADAMS. Mr. President, late Thursday night, I was pleased to join with the Senator from South Dakota [Mr. DASCHLE] in offering an amendment to the Treasury, Post Office, and Civil Service Appropriations Act, H.R. 5488, dealing with the use of the name of the late Oglala Sioux spiritual leader, Crazy Horse. I am grateful that the managers of the bill accepted our amendment, but I remain deeply disappointed and angered by the insensitive and disrespectful attitude of the Hornell Brewing Co. toward the very reasonable request of the Sioux Tribe that the company discontinue marketing Crazy Horse malt liquor.

This amendment to deny a certificate of label approval for any product which uses the name Crazy Horse is warranted and sound in its reasoning and its prescribed action. Hornell Brewing Co. has had more than ample opportunity to address and resolve this issue in good faith. It is unfortunate that this legislation must be offered today, but tolerance and patience have run out in light of constant delay and unworkable counteroffers by Hornell.

In May of this year, Surgeon General Novello cited this product as the latest example of irresponsible behavior by some segments of the alcohol industry whose pursuit of profits is devoid of any semblance of ethical considerations.

Those of us who represent States with native American populations living on reservations and in urban centers are well aware of the devastating impact that alcohol has had on those communities. This product, sold in a 40-ounce bottle, contains more alcohol than a normal six-pack of beer, and closely resembles the packaging associ-

ated with whiskey and other grain spirits. This is a shameless attempt at encouraging irresponsible consumption.

How could any responsible brewer insult the memory of Crazy Horse, the great Sioux spiritual leader, and tempt the current native American youth of this country, through a slick media campaign promoting this product? That such crass and offensive behavior could occur in the very year this Nation commemorates the 500th anniversary of the voyage of Columbus through a year of reconciliation with native Americans adds insult to the injury.

Since March 1991, when Crazy Horse was put on the market, Hornell Brewing Co. and its parent company, Heilman Brewing, have shown a complete unwillingness to constructively address this situation. Only a few days ago, Mark Rodman, representing Hornell Brewing Co., was quoted in the Rapid City Journal as saying, "It's asking too much to expect two guys from Brooklyn to be aware of the resurrection of Indian pride and heritage." Mr. President, it is not asking too much to be tasteful, respectful, and responsible in the marketing of a product, especially an alcoholic beverage. Mr. Rodman's comment is an insult to native Americans, and an insult to the good citizens of Brooklyn as well.

It is my sincere hope that the Hornell Brewing Co. will reconsider its position and will come to realize what is painfully obvious to many of us: The good name and memory of Crazy Horse should not be desecrated on a malt liquor product. I urge my colleagues to support this amendment to revoke the approval of the name Crazy Horse. I am proud to be a cosponsor of this amendment and commend my friend and colleague, Senator DASCHLE, for his leadership on this matter.●

TRIBUTE TO TAYLORSVILLE

● Mr. MCCONNELL. Mr. President, I rise today to recognize the town of Taylorsville in Spencer County.

Taylorsville is a small rural town about 30 miles northwest of Louisville. It seems decades away from the wave of technology that has swept across Kentucky in recent years. However, there are new efforts underway to make sure that Taylorsville is able to retain its small-town charm without suffering setbacks because of lack of growth.

Growth in Taylorsville is an ongoing process. Roads have been improved, including a new bypass to Taylorsville Lake. A new $500,000 sewage treatment plant is being planned, and the town is looking into bringing water from Louisville for a larger portion of Spencer County. Efforts are being made to bring more industry to the immediate region to stabilize the farming-based economy. The community is also working to increase the revenue generated from tourism at nearby Taylorsville Lake.

The strength of Taylorsville is its citizens. Locals still wave to strangers on Main Street, and the front steps of the red brick courthouse are a place for anything from local gossip to passionate debate. Crime is almost nonexistent, with only 16 of Kentucky's 120 counties having a lower crime rate than Spencer. This is visible in the relaxed atmosphere throughout the town.

I applaud Taylorsville's efforts to maintain its historical charm, but at the same time its move forward, making it one of the finest towns in Kentucky.

Mr. President, please enter the following article from Louisville's Courier-Journal in today's CONGRESSIONAL RECORD.

The article follows:

[From the Louisville Courier-Journal, Sept. 7, 1992]

TAYLORSVILLE—PROGRESS MAKES INROADS, BUT IT'S STILL A COZY PLACE

(By Joseph Gerth)

The first time Jack Jezreel walked into a Taylorsville hardware store, the woman behind the cash register introduced him to everyone in the business.

"We had heard about the rural propensity toward friendliness, but it struck me in almost a comical way, given my wife and I have always lived in urban areas," Jezreel said.

But what Jezreel found to be a bit odd, even hokey, when he moved from Jefferson County to an organic farm 10 months ago is typical. Folks still wave to strangers on Main Street. They sit in front of the red-brick courthouse chewing the fat and maybe a wad of tobacco.

One tobacco farmer runs a small barber shop across from the courthouse because the shop is the best place to learn the latest news and gossip.

Now, if you're thinking Mayberry, you're not far off.

Taylorsville is rural. The simplicity comes through in its street names: Back Alley runs behind the Spencer County Courthouse, Railroad Street runs next to the tracks; and Main Cross intersects Main Street in the center of town.

With 774 residents, it's smaller than it was 10 years ago, And 10 years before that. And 10 years before that.

"Maybe, in a way it's a little backward," said Dolly Brock, former publisher of the Spencer Magnet. "But I like it a lot."

In a more pretentious town, the mayor might take offense at someone calling his town backward. Not in Taylorsville where Mayor Walter Hahn agrees with the sentiment, if not the wording.

"Dolly sure has a way of saying things, doesn't she," he chuckled.

Taylorsville, incorporated in 1829, is nestled between the Salt River and Breshears Creek. It's named after Richard Taylor, the original owner of the 160 acres that make up the city. By the mid-19th century, Taylorsville was a bustling village of 500.

The town's growth slowed, in part because floods ravaged the city every few years until a levee was built in 1948. During the 1937 flood, residents watched as water rose to a depth of nearly 10 feet at the courthouse.

Just 35 minutes by car from downtown Louisville, Taylorsville seems decades away once you park and start visiting residents.

Patrick Bennett works in the hardware store his grandfather, J.A. Bennett, started in 1875. Today, J.A. Bennett's True Value Hardware is just across the street from the original shop, and you still get the same personal service others received over the years.

You don't need Visa, MasterCard or even cash to make a purchase if Pat Bennett knows you've been around town for a while. "I'll risk you for it," he told one long-time customer who has said she would be back the next day to pay for an item—when she had the money.

The customers all know Bennett by his first name—typical in a town of 774—and that's one of the things that keeps Bennett in town.

Ike Irvine, 64, said that despite appearances Taylorsville has changed some over the years. He remembers when Main Street was a dirt road and when livestock was sold in front of the courthouse.

One thing, however, remains the same—Taylorsville is the safest place he knows.

"The people are more friendly, and you don't have to worry about who's behind you or who's going to knock you in the back of the head."

In fact, there were no murders in Spencer County last year and only one robbery, nine rapes and 10 assaults. Only 16 Kentucky counties had less crime than Spencer.

"You can go out on the side of the road and take a nap and nobody will bother you," Hahn said. "Somebody might stop by to check on you, but that's it."

Residents agree that if there is a flaw in Taylorsville it's the lack of industry. Business at Bennett's hardware store is good, but his store is one of a handful in town still operating and still making money. A quick check of Main Street turns up several empty stores and several others that appear stocked but are closed.

Bennett said that 30 years ago more than 100 business called Taylorsville home. Now, the number is closer to 40.

Hahn said the problem is that a county with just 6,800 residents has trouble paying for the water and sewer lines and roads needed to attract new industry. Taylorsville has never been able to convert from a farming to an industrial economy.

The county is moving in the right direction, Hahn said, but he acknowledged it will be a long haul.

The roads have improved with the recent widening of Kentucky 155 and a new bypass that goes to Taylorsville Lake, which is about 3 miles outside town. A new $500,000 sewage treatment plant is being planned, and the city is looking into bringing Louisville water to a larger portion of the county.

New subdivisions have sprouted along Kentucky 155 between Taylorsville and Jeffersontown. With the county finally starting to grow, residents say the future looks good.

Hahn, however, is a realist, "All of these people coming into the county really doesn't help the city all that much. We need to get industry in here to keep our people at home and some of our bucks at home."

The lack of industry, Hahn said, will keep Taylorsville and Spencer County somewhat economically depressed, no matter how much residential development goes on. The county's brightest young people generally leave as soon as they have a chance. They go to Jefferson County where there are colleges and jobs, Hahn said.

"They don't leave for any reason other than the fact that they can't find jobs," Brock said. "I don't blame them. If they're

not farmers, there's not a whole hell of a lot to do here."

Nor has Taylorsville Lake been the boon that people predicted when Congress first appropriated money in 1987 to build a dam on the Salt River. Plans called for the Army Corps of Engineers to build a $28 million dam to control flooding downstream, especially at Shepherdsville, and to create a 17,000-acre recreational lake and park where the Van Buren community once stood.

The corps estimated that the project would return nearly $3 for every $1 spent on the dam. Officials predicted industry and residents would flock to Spencer County. Real estate prices soared, but sales were slow. Some residents feared the lake would be nothing more than a playground for rich people in Jefferson County.

And there were delays. Federal laws and the Kentucky Constitution clashed over the condemnation of property. After residents complained that the corps was treating property owners unfairly in acquiring the land, the project was delayed again.

Finally, in April, 1983, the lake was filled. Many believed it was time for Taylorsville Lake to pay off.

"Some, including my husband (late Spencer Magnet publisher Claude Brock), thought the lake was really going to put Taylorsville on the map," said Dolly Brock. "But I never believed it."

She was right.

The lake brought droves of people through town on Ky. 44 and Ky. 155. They all had one thing in common—none of them stopped in Taylorsville on the way to the lake.

"When people come here they come here with their cars loaded and their boats loaded, and they stay at the lake," she said. "Then they load up, turn around and go home."

Mayor Hahn said one reason the lake hasn't generated much business is that Spencer County is dry. When vacationers head to the lake, they stop in Jefferson or Bullitt County for groceries and drinks because they know they can't buy beer once they get there.

A referendum to allow alcohol sales failed in 1975 after churches mounted a campaign against it. But figuring that plenty of booze already comes into the county in coolers, Hahn said he'd like to see the county go wet.

The presence of the lake prompted Frankfort to put a state park on its shores, but the park has little to offer other than boat ramps, a marina and riding trails. Local interests have pushed for a lodge and other facilities at Taylorsville Lake State Park. The state has no plans for a lodge but eventually wants a campground there, said Bod Bender, a deputy parks commissioner.

While most business haven't seen the economic benefit they had hoped for 25 years ago, Mayor Hahn said the lake has been good for the community.

"It kinda gives Taylorsville, Spencer County, some notoriety. It used to be that you could ask people in Jefferson County where Spencer County was and they didn't know. Now they do. Especially the bass fishermen."

The community has begun to mobilize in an effort to make the most of the 25-mile long lake. A local group is trying to renovate and revitalize the city's Main Street.

One man is trying to get property owners to paint murals on the sides of their old brick buildings. And Hahn said he hopes to see business along Main switch to touristy, crafts-type stores. "You know, you bring the wife down to Taylorsville. You go bass fishing, and she can just hang around the city."

But Jezreel, the transplanted organic farmer, hopes the county doesn't change too much.

"Where we live, we cannot see another house. At night there is not a single light I can see from where I live. For me there's something wonderful about the quiet. * * * This is an ideal place."

Transportation: Highways: Taylorsville is served by Ky. 44 and Ky. 155. Rail: CSX and Norfolk Southern Corp. offer rail service at Shelbyville, 20 miles northeast. Ak: Standford Field is 28 miles northwest in Louisville. Trucking: Fifteen companies serve the county.

Education: Spencer County schools, 1,373 students.

Topography: Taylorsville is situated on 160 acres of bottomland at the confluence of the Salt River and Brashears Creek.

Population (1990): Taylorsville, 774; Spencer County, 6,801.

Per capita income (1990): Spencer County, $10,041 or $1,958 below the state average.

Jobs (1989): Wholesale and retail trade, 184; service occupations, 119; state and local government, 241; contract and construction, 26; manufacturing, 20 jobs.

Big employers: Herlock Industries, 35 employees; B & B Screw Machine Specialists Ltd., 27 employees.

Media: Newspapers: Spencer Magnet and the Arcedlan.

FAMOUS FACTS AND FIGURES

The original Spencer County courthouse was one of 21 Kentucky courthouses burned during the Civil War. In 1863 the building fell victim to a Confederate guerrilla raid. The current courthouse was built on the same site.

Taylorsville grabbed the national spotlight briefly in January 1950 when the "Washington Merry-Go-Round," a column by Drew Pearson, published a story about the treatment of youths jailed in the United States. The column touched off a furor when it said a juvenile had been housed in Taylorsville's log jail with a "screaming, laughing maniac." The Spencer Magnet debunked the story, and the Courier-Journal pointed out that Taylorsville didn't even have a log jail; it was made of concrete.

Spencer County was carved out of parts of Bullitt, Nelson and Shelby counties in 1824. It was named after Capt. Spear Spencer, who led troops at the battle of Tippecanoe in 1811. He fought on despite being critically wounded in the head and thighs. Another shot killed him.

Taylorsville is one of the smallest towns in the country with a major flood wall. Following five floods in 10 years, the Army Corps of Engineers built an 8,200-foot levee. Flood waters from the Salt River and Brashears Creek have yet to rise above the wall.

Proving that Taylorsville is actually years ahead of the game, the city in 1974 commemorated Kentucky's 200th, Taylorsville's 175th and Spencer County's 150th anniversaries with a festival and parade. Most Kentucky towns waited until this year to celebrate the state's bicentennial. Kentucky, after all, was chartered in 1792.•

REAUTHORIZATION OF THE NATIONAL AFFORDABLE HOUSING ACT

• Mr. ADAMS. Mr. President, I rise today in support of the National Affordable Housing Act reauthorization legislation which was passed by the Senate on September 10. I supported the original National Affordable Housing Act, and I am pleased that we passed this important reauthorization bill.

This legislation includes a provision that is of particular interest to me and was added at my request. This provision would require the Secretary of Housing and Urban Development to conduct a study on the impact and availability of off-base housing for military personnel and their families in areas of the country designated for military redeployment and expansion. The study would be based on consultation with State and local housing officials, nonprofit housing organizations, local financial institutions, and Department of Defense officials involved in the expansion.

In my own State of Washington, the number of military personnel at Fort Lewis is expected to grow from 15,300 to 23,500 by 1995—an increase of 53 percent. We cannot overlook the housing needs of the military and civilian personnel who will move into areas such as Fort Lewis as a result of military expansion of this magnitude. I am concerned that many individuals and families, both military and civilian, may not have adequate, affordable housing. In addition, it is important that such an influx does not push out of the housing market current residents of the areas designated for military expansion. I believe the inclusion of this housing study is an important means to address the off-base housing needs of our Nation's military personnel and their families.

Other provisions of this bill will reauthorize several important Federal programs such as the HOME Program and the Community Development Block Grant Program. This reauthorization legislation is the result of months of work in the Senate, and will expand the availability of, and access to, affordable housing for millions of Americans. I am pleased that Housing Secretary Kemp has indicated his support for the Senate reauthorization bill. I thank the chairman of the Banking Committee, Senator RIEGLE, for his effort to bring this legislation to a vote, and I urge the conferees to complete the reauthorization of this act prior to the end of this Congress.•

HONORING BERNIE SCHREINER

• Mr. KASTEN. Mr. President, I rise today to recognize the achievement of one of my most distinguished constituents—Mr. Bernie Schreiner of Fond du Lac, WI.

Bernie is a personal friend of mine. Looking back, I have many fond memories of visiting Schreiner's Restaurant with my family and friends. I can certainly attest to the exceptional quality and atmosphere that makes dining at Schreiner's a memorable experience. It is known for its famous

clam chowder and delicious pies, among many other dishes.

Bernie Schreiner is the example for all restauranteurs to follow. A leader in the field, Bernie was formerly head of the Wisconsin Restaurant Association—through which organization he emphasized the three standards of success at the forefront of the Wisconsin restaurant industry—quality, service, and sanitation.

"These are the secrets to success," claims Bernie. And he is right.

Schreiner's has been a vital part of Fond du Lac for 54 years, starting in 1938 when the North Main Street restaurant was run by Bernie's parents, Albert and Regina Schreiner.

Mr. President, I ask my Senate colleagues to join me in saluting the contributions of Bernie Schreiner. He is a shining example of the class of family-style restaurateurs that the people of Fond du Lac—and America—deeply cherish.•

RESPONDING TO SMALL BUSINESS CONCERNS

• Mr. GORTON. Mr. President, small businesses in Washington State provide jobs and economic opportunities for more than 1.5 million people, employing more than half of the total job force. These individually owned businesses truly are the backbone of communities throughout America.

Recently I contacted small business men and women in my home State of Washington about what role we must take to preserve small business in America. Among the responses received from these constituents were pleas for Government to reduce regulations that are making it more and more difficult for these businesses to survive. Small business operators need relief from overzealous regulations. Specifically, concern was expressed about proposed pay-or-play health care reform and mandated medical leave. The implementation of either of these proposals would devastate many small businesses and would potentially put the people they intended to help out of business.

I have cosponsored S. 1872 and S. 1936, two pro-small business alternatives designed to create more affordable health care options that are based on tax incentives. In our efforts to assist individuals involved in small business ventures we must not overwhelm them with complex, obscure, and costly regulations. I will continue to support small business alternatives that work to assure the stability of the thousands of jobs and economic opportunities these important businesses provide.•

TRIBUTE TO DICK KIRK

• Mr. WIRTH. Mr. President, I would like to take just a few minutes to comment on the retirement last week of Dick Kirk, who for many years has been a major force in Colorado economics and in Colorado banking circles while serving as president of the United Bank of Denver. His contribution does not end there. Dick Kirk has displayed leadership on one activity after another, from the Denver Chamber of Commerce, of which he was president, to a broad spectrum of education activities.

Most recently he was honored by his colleagues in the banking profession for his service as chairman of the American Banking Association, a responsibility that Dick carried out with admirable energy and intellect over the last 2 years. Dick announced his retirement last week, and I wanted to congratulate him on a distinguished career and offer my best wishes for a well deserved retirement. I am sure we have not heard the last from Dick Kirk.•

TRIBUTE TO RICHARD D. REMINGTON

• Mr. HARKIN. Mr. President, I rise to give tribute to a great American public health scholar, teacher, administrator, and public health servant, Prof. Richard D. Remington, who died in Iowa City, IA, on July 26 of this year. Professor Remington made an enormous contribution to the field of public health over his 40-year career. He provided national leadership in recognizing the declining role of prevention in health care and in prescribing prevention measures to serve as the foundation upon which we must rebuild our national health care system.

Mr. President, Professor Remington was first and foremost a public health scholar. Using his expertise in biostatistics he provided national and international leadership in the design and implementation of hypertension detection, evaluation, and control studies that led to very significant advances in the control of high blood pressure and prevention of hypertension-related heart disease and stroke. Professor Remington worked tirelessly to complete and publish community-based intervention studies that conclusively proved the efficacy of these blood pressure control measures. For this work, which has saved so many lives, he quite justly received the Albert and Mary Lasker Special Public Health Award, the highest award in the field of public health. His hypertension control research was also recognized by the American Heart Association through its most prestigious honor, the Gold Heart Award. While he was best known for his research on hypertension control, he made many other important contributions in the field of biostatistics and cardiovascular disease prevention research. Perhaps his most important research contribution was in the design and implementation of community-based prevention studies, which continue to guide today's scientists seeking to prevent a wide array of other preventable diseases.

Mr. President, Professor Remington also made very important contributions as a teacher of public health statistics. He was for many years a renowned professor of biostatistics at the University of Michigan. He authored a biostatistics text which was for many years the standard text in this field. As a teacher of biostatistics, he served as mentor for several prominent biostatisticians who themselves have become teachers and leaders in public health statistics. At the close of his career, Richard Remington had returned to the role of teacher as the University of Iowa Foundation Distinguished Professor of Preventive Medicine and Environmental Health. Professor Remington was one of the few who excel in research and teaching who then go on to become widely recognized for his skill as an administrator. Following his position as professor of biostatistics at the University of Michigan, he held a succession of academic positions including associate dean for research at the University of Texas School of Public Health, dean of the University of Michigan School of Public Health, vice president for academic affairs at the University of Iowa, and finally interim president of the University of Iowa. In all of these positions, he quickly gained the confidence of faculty, staff, and students, and provided highly effective leadership.

Mr. President, Richard Remington was a dedicated servant to the field of public health. He chaired and served on dozens of committees for the National Institutes of Health, the American Heart Association, the American Public Health Association, and many other organizations. In these many capacities he gave generously of his wisdom and expert judgment. He brought both scientific vigor and compassion for those afflicted with disease to all of these efforts. Through his chairmanship of the Institute of Medicine report on the future of public health, he provided bold national leadership in calling for a revitalization of public health. Today, as we debate the major reforms necessary to rebuild America's health care system, it has become widely recognized that preventive health measures and public health programs must be put first, rather than last. For this perspective, we owe much to Richard Remington.

Mr. President, just as Richard Remington was multidimensional as a professional, so was he personally. He served as a city councilman in Ann Arbor, MI, and as a member of the Huron River Watershed Commission. He had a lifelong interest in music, directing church choirs and playing the tuba and string bass. Many who knew Richard Remington as a public health

professional were not aware that he was also one of America's leading jazz tuba players who performed professionally with many well-known jazz musicians and who made a number of recordings playing the tuba with the Boll Weevil Jass Band and the Alamo City Jazz Band.

Mr. President, I ask my colleagues to join me in giving tribute to this remarkable American scholar, teacher, administrator, public health servant, and musician. While his passing is a profound loss to his family, to the University of Iowa, to the Nation's public health community, and to his hundreds of friends from his many walks of life, he left this world with the satisfaction that he made a real difference in the Nation's health and in providing guidance and inspiration to all who seek to prevent disease and improve health.•

THE COUNCIL ON COMPETITIVENESS: A KEY TO OUR ECONOMIC ENGINE

Mr. SEYMOUR. Mr. President, during our debate on the fiscal year 1993 Treasury and Postal appropriations bill last week, the distinguished Senator from Ohio offered an amendment to eliminate all funding for the Council on Competitiveness. Because of this institution's importance in streamlining Federal regulations which strangle American business, I was glad to see this measure withdrawn.

The Council on Competitiveness is crucial to both the environmental and economic well-being of our country and should be allowed to continue and expand its work. I would like to take a few minutes today to further explain my reasons for supporting the Council.

Benjamin Franklin once said that the only two guarantees in life were death and taxes. He should have added a third: regulation. Regulatory measures have played a constant and often appropriate role in the development of American society. However, while regulations may be needed, they must also be tempered.

In balancing the many vociferous and competing interests of today's complex world, every President since 1968 has authorized and used a regulatory review body of some kind. The Council on Competitiveness is the most recent and active of these bodies.

But Congress should encourage rather than condemn such energy and initiative. Years of Government regulations and mandates now cost us over $400 billion each year—that's more than $4,000 per household. Flying below our economic radar, this stealth tax continues to inflict real damage on the taxpayers' earning power. While ensuring adequate environmental and safety standards, the Council has saved the American taxpayer and consumer at least $15-$20 billion this year alone.

The Council has been attacked on the grounds that its work is both illegal and conducted in secret. The plain fact of the matter is that neither of these assertions are true.

In using the Council to ensure that the totality of agency regulations is effective, efficient, and rational, the President is only fulfilling his constitutional duty to be responsible and accountable for the actions of his administration. The legality of such action was reconfirmed as recently as July of this year in a U.S. appeals court decision.

As for the accusation of a secret government, the Council welcomes representatives from all sides of a debate and it frequently announces regulatory initiatives through fact sheets and press releases. Furthermore, the Council cannot issue regulations, but can only advise the relevant agencies of its suggestions and concerns. Lastly, all final agency regulations, regardless of the Council's involvement, must be published in conjunction with, and supported by, a factual record of evidence.

Mr. President, the Council on Competitiveness not the handmaiden of big business or any one special interest as many of its opponents would have you believe. Rather, it interacts with and represents a broad range of groups who are all working toward a common goal: a clean, safe, and productive America.

In fulfilling its mission, the Council weighs the needs of every citizen, no matter where they live, what nationality they are, or what job they hold. The Council exists precisely to prevent private, wealthy interests or narrow-minded bureaucrats from using the regulatory process to circumvent the intent of Congress and ignore the welfare of hard-working men and women.

And 83 percent of the people questioned in a recent Penn and Schoen Poll cannot be wrong: This country has many unnecessary and costly regulations. Numerous members of both parties, including the Democratic Presidential nominee, believe that a regulatory review mechanism in the White House is appropriate and essential. In a time of recession, the Council should be bolstered, not attacked. Its actions so far this year have put an average of $250 back into the pockets of the American family—that's real money to get our economy moving again.

Regulatory review is not some wicked conspiracy to pollute the land and endanger the worker. Instead, it is the modern fruition of what Alexander Hamilton predicted more than two centuries ago:

> 'Tis time only that can mature and perfect so compound a system, can liquidate the meaning of all the parts, and can adjust them to each other in a harmonious and consistent whole.

The $86,000 budget for the Council is one line item of spending that I can proudly support. The Council on Competitiveness should be fully funded in fiscal year 1993 and I will actively oppose any attempt to eliminate this worthy organization.

NATIONAL REHABILITATION WEEK

• Mr. HARKIN. Mr. President, July 26, 1990 was my proudest day in Congress. On that day, more than 2 years ago, Congress opened doors to all Americans with disabilities. On that day, we said "no" to fear, we said "no" to ignorance, we said "no" to injustice. For more than 2 years, the Americans With Disabilities Act has been the law of the land. Finally, Americans with disabilities have equal access to the American dream.

The ADA is not about handouts. It is not about giving something to people with disabilities.

It is about civil rights. It is about putting people with disabilities on an equal footing with everyone else. It is about breaking down barriers and opening doors of opportunity to bring all Americans with disabilities into the mainstream of American life. It is about leaving that ladder or ramp of opportunity there so all people can achieve that American dream. Above all, the ADA is about one clear and forthright message: Discrimination has no place in America.

The legislation is certainly a groundbreaking effort, but the ADA alone does not ensure equal access to all that we, as a nation, have to offer. We need a national disability policy that is based on the precepts of the ADA—respect for individual dignity, self-determination, inclusion, integration, and full participation of individuals with disabilities in all aspects of society.

We need a national disability policy that: Empowers individuals with disabilities to make meaningful contributions to their family and their community; provides individuals with disabilities with the choice to live in their own homes and communities and receive an education, work, and play alongside their nondisabled peers; guarantees affordable health care, including the elimination of exclusions for preexisting conditions; addresses the need for consumer-directed personal assistance services; and provides a Social Security system that rewards independence, not dependence.

Mr. President, today marks the beginning of National Rehabilitation Week. National Rehabilitation Week will celebrate the programs that best exemplify the future of disability policy in America: Vocational rehabilitation. Barring employment discrimination opens doors of opportunity, but how can we assure that a person with a disability will be qualified to hold a job? Vocational rehabilitation programs set out to make the employment goal of the ADA a reality by providing job training so that people with disabilities possess the skills necessary to

compete in the competitive labor market. Vocational rehabilitation pays for itself in the long run by facilitating movement off of public assistance and empowering individuals with disabilities to become taxpayers.

Beyond the workplace, our national disability policy can further serve people with disabilities through independent living programs. Perhaps more than any other program or movement in this country, independent living has made its mission the education and training of persons with disabilities to give them the power to control their own lives. Independent living means empowerment, integration, and contribution to American life. Independent living puts the spirit of the Americans With Disabilities Act into practice on a daily basis.

It is quite a coincidence that during National Rehabilitation Week, a conference committee is convening to draft a compromise version of S. 3065, the Rehabilitation Act Amendments of 1992. With the reauthorization of the Rehabilitation Act, it is my hope that we will assure greater independence, full inclusion, and economic and social self-sufficiency for persons with disabilities. In short, it is the mission of this conference committee to reflect the spirit of the ADA in the reauthorization of Rehabilitation Act. I am absolutely committed to this goal, and I will approach this task with that mission in mind at all times.

The major themes of the Senate version of the reauthorization are as follows.

First, ensure that the precepts and values embedded in the ADA are reflected in the Rehabilitation Act.

Second, improve the functioning of the vocational rehabilitation system by streamlining access, ensuring appropriate access for those individuals with the most severe disabilities, improving interagency working relationships and cooperation, improving relationships with business, industry, and labor, and providing for a comprehensive system of personnel development.

Third, increase consumer choice and involvement at the individual level—individualized written rehabilitation programs—and system level—creation of consumer councils.

Fourth, increase accountability and quality.

Fifth, ensure that basic formula grant programs remain state of the art by ensuring that the discretionary programs of research, demonstrations, and training respond to identified needs.

Sixth, update terminology.

I commend all the people who are working to assure that rehabilitation programs reflect the spirit of the ADA, and I hope that everyone involved in rehabilitation will use this week to celebrate their successes and look to the future with hope.●

COMMENDING NEVADA'S OLDEST BANK

● Mr. BRYAN. Mr. President, I rise today to recognize Nevada's oldest bank, the First Interstate Bank of Nevada which was founded in 1902 and this year is celebrating its 90th year of providing banking services to Nevadans.

First Interstate Bank of Nevada has played an important role in the history of the State. Throughout its 90 years in business, First Interstate Bank has supported many organizations that have greatly benefited the State and its communities. The bank has supported the United Way, arts organizations, the Nathan Adelson Hospice and Opportunity Village among others.

First Interstate Bank has also been a major benefactor to higher education in the Silver State. The bank committed $1 million each to the University of Nevada, Reno and the University of Nevada, Las Vegas.

First Interstate Bank of Nevada and its employees at all 69 branches will be celebrating the bank's 90th anniversary during Founders Week, September 14 through 18. On September 17, 1992, the bank will officially celebrate its 90th birthday. I would like to congratulate First Interstate Bank on 90 years of dedicated services to the people of Nevada.●

TRAGEDY OF WAR

● Mr. SIMON. Mr. President, recently, George Anastaplo, a law professor at Loyola University in Chicago, had a letter to the editor in the Southern Illinoisan, which touches on the whole tragedy of war and why we have to pursue any authorization of the use of force with great caution.

I ask to insert his letter in the RECORD at this point.

The letter follows:

CHICAGO, IL,
July 22, 1992.

A Letter to the Editor, Southern Illinoisan, Carbondale, IL.

DEAR SIR: I read with considerable interest your recent article (June 29, p. 1B) about the great sacrifices made on behalf of their country by the Boren family of Carterville during the Second World War. I had occasion to recall these and similar sacrifices in a recently published book of mine, "The American Moralist," which opens with the following dedication: "To the sacred memory of seven very young men we grew up with in Carterville, Illinois and who went off to war with us a half-century ago but who never returned."

The seven young men referred to in my dedication were among the twenty-six casualties of that war from the town in which I was privileged to grow up: John L. Boren, Joseph S. Boren, William Lee Craig, James Fozzard, Ralph G. Halstead, Dennis Jones, and George R. Priddy.

There were nineteen other Carterville men, whom I did not happen to know personally, who died in that war. They were Robert Adams, Otis Chambers, William J. Chronister, Smith Edwards, Raymond Frost, Charles C. Ghent, Jr., Ray J. Grimes, William Hall, George Harris, Robert V. Jeter, Guy E. Lauder, Gather Phillips, Paul Smith, Albert Stephenson, Wilbern Tottleben, Ivan W. Williams, Milton R. Williams, Frank J. Winters, and James Woolerton.

We are again and again reminded by such recollections as are reported in your article that even a just war leaves in its wake profound personal as well as political consequences that continue across many decades. This makes it obligatory upon us never to resort to war without full and open deliberation by those entrusted by the Constitution with the power to declare war.

Respectfully yours,

GEORGE ANASTAPLO,
Professor of Law,
Loyola University of Chicago.●

CREDIT UNIONS REMAIN CREDIBLE INSTITUTIONS

● Mr. GORTON. Mr. President, I would like to address the recent failure of savings and loan institutions in the United States and the effects this has had on other financial institutions.

The failure of savings and loan institutions in America has left the Federal Government hundreds of thousands of dollars in debt. It has also raised concerns about the stability of other financial institutions, mainly credit unions.

As the Federal Government faces this burdensome debt, the U.S. Senate confronts the question of what went wrong with these institutions and what can be done in the future to prevent further financial disasters. In efforts to reevaluate our Nation's financial institutions, some Members feel that there is a need to examine more closely the role of credit unions.

Recently, I sought advice from Washington State citizens regarding the role credit unions play in light of the failure of other financial institutions. I feel, and am supported by constituents in Washington State, that there is no need to implement regulations on credit unions. These financial institutions have offered competent and necessary services in the past and give no indication that services may differ in the future.

At this time, I do not support an investigation into America's credit unions. Such an investigation would be costly and an inefficient use of time. The respondents from Washington State overwhelmingly agree that credit unions have earned their credible status and should be left alone. The time and efforts of Congress would be better employed in other ventures.●

APPOINTMENT OF JOCELYN BURDICK TO THE SENATE

Mr. MITCHELL. Mr. President, Gov. George A. Sinner of North Dakota has appointed Jocelyn Burdick to fill the seat of her late husband, Senator Quentin Burdick. Under North Dakota law, this appointment is until the Senate seat is filled by election.

Mrs. Burdick will be sworn in at 12 noon on this Wednesday, September 16.

I urge all Senators to be present on the floor for this ceremony to welcome Mrs. Burdick as a Member of the U.S. Senate.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Tuesday, September 15; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that the time until 10 a.m. tomorrow be for debate on the motion to invoke cloture on the motion to disagree to the amendments of the House to S. 2, the education bill, with the time equally divided and controlled in the usual form; and that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences.

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

SENATE SCHEDULE

Mr. MITCHELL. Mr. President, with respect to the Senate's schedule, I met with the distinguished Republican leader on Friday. I also spoke with the chairman of the Senate Appropriations Committee and a number of other interested Senators regarding the schedule for tomorrow and the days immediately following tomorrow.

The Senate Appropriations Committee has reported out a supplemental appropriations bill that is intended to provide appropriations for the various national disasters which have occurred tragically in recent days and weeks.

Therefore, I am now announcing my intention that as soon as we can dispose of the education bill, to which I earlier referred, we will take up the supplemental appropriations bill dealing with the national disasters in Florida—I hope that Hawaii will be included in that—and Louisiana, of course, as well in connection with the same storm that struck Florida, and other matters that are in that bill. This is very important to the millions of people affected by these natural disasters and I hope we can get on to those bills as soon as possible.

Therefore, just as soon as we can dispose of the education bill to which I earlier referred, it is my intention to seek to have the Senate consider the supplemental appropriations bill to deal with these emergencies.

RECESS UNTIL 9 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no other business to come before the Senate, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 5:47 p.m., recessed until Tuesday, September 15, 1992, at 9 a.m.